

HOUSE OF LORDS MANUSCRIPTS.

VOLUME III.—(NEW SERIES.)

THE
MANUSCRIPTS
OF THE
HOUSE OF LORDS,
1697—1699.

*[In continuation of the Volumes issued under the authority of the
Historical Manuscripts Commission.]*

Ordered to be printed 9th August 1905.

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ABBREVIATIONS USED IN THE FOLLOWING
CALENDAR.

MS. Min.—MS. books containing Minutes of the Proceedings in the House, and intituled "Journal."

Com. Book.—MS. books containing Minutes of the Proceedings of Select Committees.

Priv. Book.—MS. books containing Minutes of the Proceedings of the Committee for Privileges.

Joint Com. Book.—MS. books containing Minutes of the Proceedings of Joint Committees of Lords and Commons.

Long Cal.—MS. list of the Acts, both Public and Private, numbered consecutively for each regnal year, in the order in which they are kept in the Victoria Tower.

INTRODUCTION.

The Manuscripts of the House of Lords, being no longer printed by the authority of the Historical Manuscripts Commission, will for the future appear as separate volumes, of which this is the third. For the sake of convenience, they will be printed in the same form as the volumes already issued by the Commission

THIS Volume includes the last Session of the Parliament which met in 1695, and the first Session of a new Parliament. On the 2nd of December 1697 London was the scene of great rejoicings to celebrate the restoration of peace. The following day the King opened Parliament and delivered the Speech from the Throne. He began by congratulating the Nation upon the conclusion of an honourable peace, but warned his subjects that they would not find all that relief from the peace which he could wish, and they might expect, as the funds intended for the last year's service had fallen short of answering the sums for which they had been given; so that a considerable deficit had to be provided for. There was a debt upon the account of the Fleet and the Army, and, as the Revenues of the Crown had been anticipated for public uses, the King, without the assistance of Parliament, was wholly destitute of means to support the Civil List. William then proceeded to point out that, as the strength of the Navy had been nearly doubled since his accession, the charge for maintaining it would be proportionally augmented: "it is certainly necessary, for the interest and reputation of England, to have always a great strength at sea." He next touched upon a subject which was probably dearer to his heart, but with regard to which he was less sure of Parliamentary support, the question of the maintenance of a Standing Army. "The circumstances of affairs abroad are such, that I think myself obliged to tell you my opinion, that, for the present, England cannot be safe without a land force; and I hope that we shall not give those who mean us ill the opportunity of effecting that, under the notion of a Peace, which they could not bring to pass by a War."

Having tendered his advice to his people upon this important matter, the King took the opportunity to thank them for the loyal support which they had given to him during the War, and to assure them that as he had never had, so he never would, nor could, have any interest separate from theirs. He promised, now that he had leisure, "to rectify such corruptions or abuses as may have crept into any part of the administration during the War, and effectually to discourage profaneness and immorality." He also stated his intention to promote and encourage trade.

The Lords appointed a Committee to draw up an Address to his Majesty in answer to his Speech. This Address was reported to the House on the 6th of December.

In the other House the question of the retention of a Standing Army was almost immediately raised.

A war of pamphlets had already prepared the public mind for the violent Parliamentary struggle which was about to ensue—a struggle which the Whig Ministry must have viewed with mixed feelings, but which was practically forced upon them by the King's intense desire to maintain on a war footing the admirable army which he had formed.

The menacing condition of European politics, due to the imminence at any moment of a disputed succession to the throne of Spain, coupled with the fact that Louis XIV. was proposing to maintain a peace establishment of 300,000 men, amply justified the apprehension which the King had expressed in his Speech.

But in England in the 17th century, when men could still remember the military despotism of Cromwell, and the standing army of James II., there was a profound distrust of the permanent retention of any armed force. The supporters of the "Blue Water" theory, and of the invincibility of the British Militia, were even more numerous than at the present time, nor were they confined to either of the two great political parties.

In the Commons the Tories, led by Harley, were quick to seize the opportunity of attacking the Whig Government, upon whom was to fall the unpleasant duty of defending the King's policy of retaining a Standing Army—a policy with regard to which they could not even depend on the support of their own followers.

The Whigs had obtained a great majority at the general election of 1695. During their period of power the Currency had been reformed and the war had been brought to a satisfactory conclusion. But in December 1697, although the influence of Montague over the House of Commons was apparently unshaken, it was yet evident that in the Country the popularity of the Government was on the decline.

On the 11th of December the Commons decided to adopt a resolution to pay off and disband all the forces which had been raised since the 29th of September 1680.

It was calculated that the effect of this vote would be to reduce the Army to about 9,000 men.

On the 8th of January following, after the resignation by Sunderland of the office of Lord Chamberlain had done something to revive their popularity, the Ministry endeavoured to get the Commons to rescind this resolution. They were defeated on division by 188 votes to 164. Six days later the Commons resolved that a sum not exceeding 350,000*l.* should be granted for the maintenance of the Army for the year 1698. It was estimated that this amount would only provide for the retention of 10,000 men.

On the 5th of July the Parliament which had met in 1695 was dissolved. In the Speech with which he opened the new Parliament on the 12th of December following, the King reiterated his advice upon the necessity of maintaining a powerful fleet and army "to preserve to England the weight and influence it has, at present, on the Councils and affairs abroad." The new House of Commons was, however, even less inclined than its predecessor to retain an adequate Standing Army. On the 17th of December it was resolved to reduce the land forces in England, in English pay, to 7,000 men, who were to be natural born subjects of England. Two days later it was further resolved that the forces in Ireland should be reduced to 12,000 men, who were to be natural born subjects of his Majesty. On the 18th of January a Bill carrying out these resolutions passed the House of Commons by 221 votes to 154. It passed the Lords without any amendment on the 30th of January.

The only Papers in this Volume which have any bearing upon the interesting question of the disbanding of the Army are

No. **1350**, which contains an official summary of the strength of the English Army in 1685, and No. **1356**, which is a copy of the King's Speech of the 1st of February 1698 with regard to the dismissal of his Dutch Guards. The Lords were in Committee of the Whole House upon this Speech on the 7th and 8th of February, and passed by 54 votes to 38 a resolution expressing their willingness "to enter into any expedient that shall be thought proper, and consisting with the forms of Parliament, for retaining near his Majesty for the year 1699 those guards who came over with his Majesty to our assistance, and have constantly attended him in all the actions wherein he hath been engaged."

On the same occasion the Lords, who were probably considerably impressed by the warning given in the Speech from the Throne at the opening of Parliament,* resolved to consider the state of the Fleet and the security of fortifications (No. **1371**). On the 13th of February the Earl of Romney, Master of the Ordnance, delivered in an estimate of work and repairs necessary to be done at the several forts and batteries on the River Medway. A list of the ships of the Royal Navy and their condition of repair was handed in on the 16th, on which day a Select Committee was appointed to look into the whole question. Sir Martin Beckman, Chief Engineer, gave a very depressing account of the state of the fortifications at Portsmouth and Gosport, for which condition of things he took the opportunity of blaming his predecessor Sir Bernard de Gomme, all of whose work "was approved of, as from an oracle, and I kept off from ever having anything to do with the fortifications, till I succeeded him, and then the fortifications were laid aside, and the Army by land, and the Fleet, were accounted the walls of England." He estimated that the necessary repairs at Portsmouth would amount to 112,614*l.* 16*s.* 1*d.*, whilst the repairs to the forts on the Medway were estimated at 11,755*l.* 11*s.* 6*d.*, and to Tilbury Fort at 6,114*l.* 11*s.*, making a grand total of 130,484*l.* 18*s.* 7*d.*

The Admiralty Return made out the Navy to consist of 266 ships of all classes, 88 of which were at sea. Of the remainder, 103 were stated to be "in repair," 17 "under repair," 29 "want great repair or re-building," 29 "want less repair."

* "The Lords sat till after candlelight debating His Majestie's Speech: considered the words unkindly used."—Luttrell, Vol. iv., page 481.

The expense "of putting that part of his Majesty's fleet into repair, which is now out of repair and in harbour, as also of the charge of completing their rigging, furniture and stores," was estimated at 439,504*l.* 15*s.* 8*d.*

The attention of Parliament in the course of the two long and busy Sessions with which this Volume deals was mainly devoted to matters relating to trade and manufactures. The object of the Government was to encourage English trade, which had suffered considerably in the war. In the 17th Century this policy implied of necessity a series of measures for the protection of home industries.

The commercial views of the period are well set out in a Report made to the House of Commons by the Commissioners for Trade and Plantations in January 1698, in which they particularly distinguished between trade in goods imported from some countries "to a much greater original value than we have exported thither," and trade based on a "better foundation." "Such trades" they explained "have occasioned the exportation of coin, or bullion, or hindered the importation thereof." They argued that, although some private persons might enrich themselves, by trading in particular commodities, a commercial system by which everything was not gained from foreigners and foreign countries could bring no addition to trade and must diminish the wealth and treasure of the Nation.

This argument was considered to apply with special force to the exportation of English wool. The woollen trade was at this time the staple industry of the country, "on which," as the Woollen Manufacturers' Bill (No. 1216) recites, "the value of lands and the trade of the Nation do chiefly depend."* It was feared that if English unwrought wool were exported to foreign countries, not only would the cloth-making industry of this Country be ruined, but also that England would lose her shipping trade. One of the Counsel who appeared before the Select Committee of the Lords upon the Bill was probably only giving expression to the general apprehension when he stated that "If we lose our woollen trade, we lose our navigation." But it was not only the export of wool from England

* Exports of woollen manufacture, which under Charles II. and James II. did not much exceed one million pounds per annum, are said to have amounted in 1699 to almost three millions sterling.

which alarmed the English manufacturers. The export of wool from Ireland was a far more serious menace to the English clothing industry.

It had been the policy of England ever since the time of Strafford to prevent the manufacture of wool into cloth in Ireland, but since the Restoration there had been a steady development of the industry in Ireland, which by 1697 had assumed such proportions that it caused considerable alarm to the West of England clothiers.

There was also a considerable market for Irish wool on the Continent, where it had already become a serious rival to English cloth.

The Bill (No. **1216**) the object of which was "to encourage the woollen manufacture in England, and to restrain the exportation of woollen manufactures from Ireland into any foreign parts, and for the better preventing the exportation of wool from England and Ireland," was brought from the Commons on the 23rd of February 1697-98. Much interesting evidence was brought before the Committee to which the Bill was referred. The opponents of the Bill urged that its effect would be the opposite of that which its supporters desired; that the new duties which it imposed would practically prevent the export of wool from Ireland into England, and would therefore have the effect of forcing the Irish "upon making cloth to clothe themselves." "If this Bill pass, it will make the Irish people wear their own stuffs, because they cannot have English." It was further urged with considerable economic force that as 1 lb. of Irish wool in other countries was admitted to be worth 3 lbs. or 4 lbs. of English wool, the importation into England for export purposes of Irish wool was therefore of the greatest value to English Traders. Evidence was brought to show that wool in Ireland was 50 per cent. cheaper than in England, which was due principally to the fact that the cost of living in Ireland was much less than in England. It was no doubt owing to this reason that so many English workpeople, mainly from the West of England, were induced to go and settle in Ireland.*

Almost all the Petitions in favour of the Bill (No. **1229**) refer to this point, which was one of the principal grievances against

* "In 1697 it seemed probable that the Devonshire industry would soon be transplanted to Dublin."—"The Growth of English Industry and Commerce in Modern Times," by W. Cunningham, D.D., p. 376.

the Irish woollen industry. The Petition of the Mayor and citizens of the City of Exeter expresses the general and genuine alarm which the increase of the Irish woollen trade caused at this time. "The woollen manufacture in England," they complained, "has been much lessened by the Irish, who are rivals in trade, and by reason of the cheapness of their wool, wages and provisions supplant the English in foreign markets, to the ruin of the trade and the diminution of the value of land in England." To this Petition was appended a list "of persons trading in and depending upon the manufacturing of serges within the City of Exeter and parts adjacent, lately removed from thence into the Kingdom of Ireland." The list gives 120 names. Many other Devonshire towns engaged in the woollen industry petitioned in the same strain, as well as the East of England manufacturing centres in Suffolk and Essex.

The result of the Lords' inquiry upon the Bill was an Address to the King, which is printed in full in the Lords' Journal, in which they urge that the Irish woollen trade should be discouraged and an effort made to encourage the linen manufacture in that country. A Bill, which in the main gave effect to these resolutions, was brought from the Commons and read a first time on the 7th of March 1698. It received the Royal Assent on the 4th of May following. It is very doubtful whether prohibitory measures of this kind did much good to English manufacturers: to the English settlers in Ireland they undoubtedly did much harm, by preventing the further development of a trade for which the country was admirably adapted. "The Irish were deprived of their home market for wool and exported it in a raw or half-manufactured state to France, while the workmen who could no longer earn a living in Ireland found their way to foreign countries, where they started industries which became more formidable rivals to the English manufactures than the Irish would have been likely to prove."* The immediate danger to the English woollen industry was, however, too apparent to allow of any less evident considerations being taken into account. The Irish woollen trade was a serious menace to that of England and was accordingly sacrificed.

* "The Growth of English Industry and Commerce in Modern Times," by W. Cunningham, D.D., p. 378.

Various other measures introduced during this session are characteristic of the protective spirit of the time. The Petition (No. **1215**), of certain retailers of bone-lace, needle-work, point and cut work against a Bill designed to make more effectual an Act* passed in the reign of Charles II. to prevent the importation of foreign lace illustrates the difficultiesⁿ to which traders were forced to submit. The clause in the Bill to which the petitioners objected threw upon the retailer, his executors or administrators, the onus of proving that the lace he was selling was made in England, and not upon the informer to prove the contrary. Despite the opposition of the retailers, the Bill was passed without amendment.

A Petition (No. **1314**), of merchants trading to Scotland, against the proposal in the Whale-fins and Scotch Linen Bill to lay an additional duty upon Scottish linens incidentally shows, first that there was a considerable exportation of English woollen manufactures to Scotland, and, secondly, that the woollen industry in Scotland was increasing. The merchants complained that the new duty would not materially increase the revenue and that "the great vent of English woollen manufactures yearly exported to Scotland will be stopped, to the great detriment of English trade in general,† and the encouragement of the new undertakers of the woollen manufactures in Scotland, who have already made a considerable advance in erecting the same there, and by this method it is doubted, will bring it to such perfection as may occasion the loss of the whole trade from England." This alarming prospect, curiously enough, does not seem to have impressed the Lords as much as might have been expected, and the Bill was passed without any material alteration.

A measure really framed for the protection of the English woollen manufacture is referred to in No. **1347**. It is a Petition

* This Act was repealed by 11 Will. III. c. II., because, as the Preamble explains, "Great complaints are daily made of the decay of the woollen manufactures in this Kingdom to the impoverishment of many thousands of poor families, And whereas by experience it is found That an Act made in the 9th and 10th years of his now Majesty's reign intituled an Act for rendering the laws more effectual for preventing the importation of foreign bone-lace, loom lace, needle-work, point and cut work has been one great cause thereof by being the occasion that our woollen manufactures are prohibited to be imported into Flanders. For remedy therefore of the mischief aforesaid, Be it enacted, &c., That at the end of three months to commence from the time of taking off the prohibition of the English woollen manufactures in Flanders the said Act . . . shall be . . . repealed."

† The value of wool exported annually to Scotland was stated by one witness to amount to 100,000*l*.

of the Master, Wardens and Assistants of the Company of Gold and Silver wire drawers. The Bill to which it refers was to prevent the manufacture of buttons out of cloth or wood. Up to this time buttons had been almost exclusively made out of silk and mohair, which were obtained principally from Turkey "in exchange for our woollen manufacture to the great consumption and encouragement thereof." It was feared that if no attempt were made to protect this industry, the export trade in woollen manufactures would be greatly prejudiced.

No. **1307** is a Petition of certain shopkeepers against various clauses in a Bill which gave to the Royal Lustring Company,* in return for the benefits which they had conferred upon the Kingdom "by employing great numbers of the poor, and preventing the exportation of our coin for purchasing those commodities in foreign parts," an absolute monopoly in the manufacture of lustrings for a period of 14 years. This Company had suffered considerably by reason of the extensive smuggling in foreign silks which had been carried on during the war. The responsibility for this illicit trading was traced to a group of Huguenot merchants living in London, who towards the close of the Session were solemnly impeached by the Commons for their misdeeds. The prisoners pleaded guilty, wisely taking the advice of their friends, who informed them that "it was a presumption to contend with the House of Commons," and that a long trial at so late a period of the Session would only anger the Lords and make their punishment more severe. (No. **1282**, No. **1287**, No. **1300**.)

The monopoly conferred upon the Lustring Company did not avail that Company very much, not so much because French silks still continued to be smuggled into the country, as Macaulay suggests, as because the fashion of wearing such dress materials changed about this time.

From a commercial point of view probably the most interesting measures brought before Parliament during these Sessions were the Bills dealing with the various great Companies which carried on trade with the Indies, Africa, and Russia.

* The grievances of the Royal Lustring Company were examined at length by a Committee of the Commons, and much interesting evidence and many statistics are printed in the Commons Journal. (C. J., XII. 210-235.) It was the Report of this Committee which led to the Impeachment of Goudet, &c.

Of these measures the most important was the East Indies Act, which received the Royal Assent on the 5th of July 1698.

The Petition of the East India Company against the Bill (No. **1310**) is the only Paper in this Volume which deals with the measure.

The Company had suffered severely during the war, and estimated their losses as at least 1,500,000*l*,* but in spite of these losses they maintained that they had carried on their trade, had paid 295,000*l*. in customs and 85,000*l*. in taxes, “and also supplied his Majesty in Holland, on a very pressing occasion, with 6,000 barrels of gunpowder, and subscribed 80,000*l*. towards the circulating of Exchequer Bills at a time of great extremity.”

The Company had, however, paid no dividends for several years, and this fact, coupled with their intolerance towards any traders who ventured to compete with their Indian trade, and the notorious bribery by which they had succeeded in obtaining their Charter in 1693, had made for them many enemies in the City of London.

When, therefore, in the spring of 1698 the state of the National finances was such that the Commons again took into consideration the question of Indian Trade, the Company thought it advisable to make certain proposals to Parliament. They offered to advance 700,000*l*. for the public service, at 4 per cent., on the stipulation that the exclusive trade to India was legally guaranteed to them. Montague, however, who no doubt was anxious to get rid of an institution which was considered to be the centre of the Tory interest in the City of London, favoured a different scheme, which was put forward by the opponents of the Company. These merchants, who were interested in the trade to the East, proposed to advance to the Government two millions, at 8 per cent., on condition that the exclusive trade to India was settled on them. It was further stipulated that the subscribers in the new undertaking were not to be obliged to trade in a single Joint Stock Company unless they should afterwards desire to be so incorporated, in which case a Charter was to be granted to them.

* House of Lords MSS., Vol. II. (New Series), No. 959.

A Bill to enable the new subscribers to trade under the title of "The General Society of Traders to the East Indies" was then introduced into the Commons, which, despite the strenuous opposition of the old Company, passed both Houses and became law.

On the occasion of this struggle between the two Companies, it is interesting to notice that there was a considerable body of opinion against any exclusive trade. It was pointed out "that the closer and more open it is driven, it will bring more profit to the Nation and less disturb our own manufactures."

It was also becoming more and more clear, first, that Joint Stock Companies engaged in foreign trade could not without the greatest difficulty resist the competition of private traders, and secondly, that such competition was beneficial to trade generally. Various petitions for and against the Africa Trade Bill (No. 1292) prove how necessary it was becoming to afford some protection to the Companies against outside rivals. The African trade, which had previously been the monopoly of the Royal African Company, had soon after the Revolution been thrown open. This Bill imposed a duty of 10 per cent. upon almost all goods carried by the independent traders. The duty was to be employed by the Company upon the maintenance of the garrisons and forts which were necessary for the protection of their trade.

The Planters and Merchants of the Caribby Islands in America welcomed the Bill because they believed that the freedom of trade which it guaranteed would "cause such emulation between the Company and other traders that the trade will be supported and defended, and the plantations in general better supplied with negroes, the only foundation of all planters, at lower rates and with a longer credit than ever." Curiously enough, the Planters in the Barbadoes objected to the Bill because they considered that it imposed "a great duty on the trade of negroes." The Bill received the Royal Assent on the 3rd of July, but it does not seem to have done much to benefit the Company.*

A measure which had considerably more success was the Russian Trade Bill (No. 1274). The Russia Company was a

* "In 1712 their debts had become so great that a particular Act of Parliament was thought necessary both for their security and for that of their creditors In 1730 their affairs were in so great disorder that they were altogether incapable of maintaining their forts and garrisons, the sole purpose and pretext of their institution."—Adam Smith "*Wealth of Nations*."

Regulated Company, not a Joint Stock Company. It had been established by Act of Parliament in the reign of Elizabeth. The management of the Company had been always much criticised, and its trade had practically ceased to exist before the end of the reign of James I. After the Restoration various attempts were made to revive the trade with Russia, but the very expensive licences which the Russia Company exacted from any merchants who were anxious to enter into the trade effectually prevented the success of these efforts. In 1697-98 the Czar Peter visited England, and, through the instrumentality of Lord Carmarthen, conceded a tobacco monopoly in Russia to a body of English merchants. In return for the monopoly the Merchants advanced the Czar the sum of 12,000*l*. They then complained that, by reason of the Russia Company's prohibition, they could not reap the benefit of their contract unless they were admitted upon easy terms into the Company (No. **1275**). In reply, the Russia Company offered to grant, for the sum of 500*l*. and 1 per cent. on goods imported, a general licence to the Merchants concerned in the Tobacco Contract to transport to Archangel as much tobacco as they liked. They also agreed to admit into the freedom of the Company for the general trade to Russia any of the Merchants interested in the Tobacco Contract, on condition of their paying the usual fine of 50*l*. The Lords considered that this proposal was a fair one. The Merchants contended that the Company's conditions were unreasonable. "We know no reason why this good trade for the kingdom should be interrupted. This is a new trade and hazardous, and we hope we shall have all the encouragement that may be." The Company then reduced the percentage which they had demanded from 1 per cent. to $\frac{1}{2}$ per cent. The Lords approved of this reduction, and their decision was communicated to the Company and the Merchants. The latter, however, refused to accept the Company's proposals, for various reasons which are set out in a paper which was delivered into the House on 23 June, (annex (*e*) No. **1275**), on which day the Lords rejected the Bill.

The Tobacco Contractors do not appear to have been discouraged by the defeat of their Bill. A new Bill was carried through the Commons and introduced in the Lords on the 4th of February following. On the 21st of February the Bill

was committed to a Select Committee. On the 27th Sir R. Haddock, one of the Commissioners of the Navy, was examined by the Committee and in answer to the question "what naval stores proper for the King's Navy may be had from Russia as good as from Sweden?" explained that the Commissioners of the Navy had bought all the war naval stores from Russia where they could be obtained better than elsewhere. "We think it necessary the trade for them thither should be open." It was probably this official evidence that made the Company realise the futility of further resistance. "We are content" explained their Counsel "they bring all naval stores from Archangel, paying nothing. We leave it to your Lordships what fine they shall pay as an acknowledgment. To make their returns in naval stores, they may carry cloth or what they please to purchase them with, as if they were incorporated. If they are incorporated, we fear they will outvote the old Company, and make us contribute to any loss they may have by their Tobacco Contract. The Czar is absolute, and will, if they are incorporated, seize our goods as well as theirs: If they are not so, he is so just, he will not touch the Company's effects." On the following day the Bill was further considered, and an amendment was proposed by the Company, which would have had the effect of preventing the Tobacco Merchants from bringing any goods but naval stores from Russia without paying an imposition to the Company. The amendment was rejected on a division. A joint effort was then made by the promoters of the Bill and the Company to exclude all retail traders. The Committee decided by 25 votes to 4 against any such restriction. The Bill was reported to the House on the 8th of March and received the Royal Assent on the 24th of the same month. The Act did not destroy the Russia Company, but it reduced the fine upon admission to the Company from 60*l.* or 50*l.* to 5*l.*, and so, by enlarging the membership, did away with a monopoly which had effectually prevented the expansion of our trade with Russia.*

* "This measure seems to have answered its purpose; the Company was no longer a monopoly in fact, and the management of the regulated Companies in the northern trades ceased to give rise to complaint before the 17th century had closed."—"Growth of English Industry and Commerce," by W. Cunningham, D.D. p. 241.

During the years 1697-1699 various measures were passed which were calculated to develop the internal trade of the Country. Parliament at this period seems to have begun to realise the necessity for improving the navigation of the rivers of England as a cheap means of inland carriage. Various River Navigation Bills were passed during the Sessions dealt with in this Volume, viz., the Colchester Navigation Act (No. **1253**), the Tone River Navigation Act (No. **1367**), and the Trent River Navigation Act (No. **1267**).

The Aire and Calder Navigation Bill (No. **1435**), which was brought from the Commons on the 20th April 1698, deserves notice from the fact that it is the first of many Bills designed to improve the navigation of these rivers as a means of opening up the trade of the West Riding of Yorkshire.* The Petitions in favour of the Bill (No. **1272**) are extremely interesting because they illustrate very clearly how keenly alive the commercial classes of Leeds and Wakefield were to the advantages which the rendering navigable of the Aire and Calder would bring to their trade. The Petitions against the Bill afford a good example of the arguments which in the 17th century were always most likely to influence Parliament. It was found that if the Aire and Calder were made navigable great injury would be done to the Northumberland and Durham coal trade. "Should the Bill pass, great quantities of coal" urged the coal traders of the town of Sunderland in their Petition "will be brought down by the rivers Aire and Calder for supplying the cities of York and Lincoln, and the towns of Beverley, Hull, Gainsborough, Stockwith, and all other places near the said rivers, which coals . . . will be sold so cheap that Petitioners' trade will be destroyed, and some 400 sail of ships will be laid aside." It was further pointed out that the coal trade of Newcastle and Sunderland was the great nursery of seamen in England, from whence the Royal Navy was supplied in time of war, and the merchant ships furnished in time of peace, with able seamen. Almost all the other ports on the north-east coast petitioned in the same strain.

* The benefits which the West Riding of Yorkshire would receive by the making navigable of the rivers Aire and Calder seem to have been understood as early as 1627, in which year a Mr. Mares endeavoured to persuade Sir T. Saville to assist him in making the Calder navigable as far as Wakefield. (See Allen's History of the County of Yorkshire, Vol. II., p. 480.)

A more apparent objection to the Bill was raised in several Petitions from towns situated on the Ouse and the Wharfe. The inhabitants of Tadcaster, for instance, complained that the making the Aire and Calder navigable, by preventing the tide flowing up the River Wharfe, the Aire being much nearer the sea, would deprive them of a very profitable carrying trade in goods brought by boat from York, Hull and other places and then carried on horseback to Leeds and other towns in the West Riding. It was against this method of land carriage that the West Riding towns complained, "they being at present forced to carry their goods and merchandises some . . . 30 miles by land carriage, which is very chargeable, besides the damage that frequently happens to their cloth from the badness of the ways, which, although the county yearly expend considerable sums in repairing them, are frequently impassable in winter for ordinary country carts and carriages." The possible prejudice to the navigation of the river Ouse was, however, a serious objection to the Bill, and the Lords accordingly ordered the Trinity House to report upon the effect which the proposed work on the Aire and Calder would have upon the waters of the Ouse. The Trinity House reported on the 24th of May that "the opening and widening of any of the rivers that have any communication with the Ouse, so as to let the tide further into the same, will deprive that part of the Ouse, above the inlet of such rivers, of so much water as they shall receive more than they did before, and consequently will be so far hurtful to the river Ouse as its depth of water shall be lessened thereby." They considered, however, that if it were provided by the Bill that the tide should not be allowed to flow further than to Knottingley, "by causing thereat a sufficient stop to be made to the flood, by dams and locks, or the like," the making the rivers Aire and Calder navigable would rather benefit than be prejudicial to the navigation on the River Ouse.

There do not appear to have been any further proceedings upon the Bill this Session. But in the following year an Act was passed (10 Will. III. c. 25), Section 12 of which carries out the views of Trinity House for the protection of the River Ouse.

A measure which deserves notice because it marked rather a new departure in commercial legislation, and must have been of

considerable assistance in the settlement of trade disputes without litigation, was the Arbitration Act* (No. 1219). The Act, which received the Royal Assent on the 16th of May 1698, was designed "for promoting trade and rendering the awards of arbitrators the more effectual in all cases for the final determination of controversies referred to them by merchants and traders or others concerning matters of account or trade or other matters." The Act made it lawful, with the consent of both the contending parties, for all awards of arbitrators in trade disputes to be made a rule of any of his Majesty's Courts of Record which the parties might choose.

The Act which is referred to in No. 1234 was designed to make absolutely clear the principles of Poor Law administration laid down in a Statute of 8 and 9 Will. III. The object of that Act had been to restore the free circulation of labour, which previous legislation from the date of the Act of 43 Eliz. had done much to check.

The Act of 8 and 9 Will. III. enacted that all parishes should be compelled by law to receive any person who brought with him a certificate signed by the churchwardens and overseers of the poor of the parish in which he had been last legally settled. No such person was to be removable, unless he actually became a charge upon the rates, in which case the parish which had granted him a certificate was to be liable for the payment both of his maintenance and of his removal.

The Act of this Session was designed to give even more security to the parish in which the man who possessed the necessary certificate came to reside. In the future no certificate given by the overseers of one parish was to be adjudged as settled unless the person in question either rented a tenement of 10*l.* a year or served in an annual parish office for a whole year.†

* The importance of the measure to the commercial classes was apparently recognised in the Commons, where it was ordered that "all the members that are merchants, and all that serve for the cloathing counties be added to the Committee" to which the Bill was referred. C. J., XII., p. 244.

† "It is obvious that there are divers good reasons for requiring certificates with persons coming to settle in any place; namely, that persons residing under them can gain no settlement, neither by apprenticeship, nor by service, nor by giving notice, nor by paying parish rates; that they can settle neither apprentices nor servants; that if they become chargeable, it is certainly known whither to remove them, and the parish shall be paid for the removal, and for their maintenance in the mean time; and that if they fall sick, and cannot be removed, the parish which gave the certificate must maintain them; none of all which can be

The Bill was brought from the Commons on the 16th of February. The Lords made several amendments, to one of which the Commons disagreed. The effect of the amendment in question would apparently have been to alter the existing law by which children of persons coming into a parish by certificate were entitled themselves to settlement in the said parish, by being either bound apprentices or hired as servants by the year there. The Lords did not insist upon their amendment. The Bill received the Royal Assent on the 2nd of April.

A measure of some importance, into the details of which the Lords went very carefully, was the New Forest Bill, which was brought from the Commons on the 28th of March 1697-98.

The Petitions against the Bill (No. 1255) were mainly lodged by freeholders and others living in the neighbourhood, who "enjoyed the privileges of herbage, pannage and fuel in the New Forest." The Bill was brought in with the object of encouraging and preserving the timber in the Forest, the wholesale destruction and neglect of which was undoubtedly a serious national danger at a time when the ships of the Royal Navy were made of wood. The care of the young wood and timber depended almost entirely upon the under-keepers, who were badly paid and whose income therefore was chiefly derived from fees for deer, from swine, and from the sale of browse wood. A great many people were also entitled to fuel from the Forest, to satisfy whom several thousand trees were annually sacrificed. The Bill was referred to a Select Committee, which heard evidence and made certain proposals as to inclosures which were accepted by the House. The Bill received the Royal Assent on 5th July 1698. One of the immediate effects of the Act was the inclosure of 1,022 acres into the Forest.*

There are in this volume several papers dealing with subjects of law and police. The Treason (Correspondence with James II.)

without a certificate. Which reasons will hold proportionably for parishes not granting certificates in ordinary cases; for it is far more than an equal chance, but that they will have the certificated persons again, and in a worse condition. . . . There is somewhat of hardship in this matter of certificates by putting it in the power of a parish officer to imprison a man as it were for life; however inconvenient it may be for him to continue at that place where he has had the misfortune to acquire what is called a settlement, or whatever advantage he may propose to himself by living elsewhere."—Dr. Burn, "*History of the Poor Laws*," cited in "*Wealth of Nations*," by Adam Smith.

* "*Historical Inquiries concerning Forests and Forest Laws, with Topographical Remarks upon the Ancient and Modern State of the New Forest*," by Percival Lewis, F.A.S. London, 1811.

Act* (No. 1191) was rendered necessary when trade relations with France were resumed on the conclusion of peace. It was feared that the Jacobites would seize the opportunity to correspond with King James afforded by the free access to this country which interests of commerce demanded. The Lords inserted an amendment which prevented persons indicted for offences under the Bill from having the benefit of the Act of 7 Will. III. "An Act for regulating of Trials in cases of Treason, and misprision of Treason." The Commons objected to the amendment, upon which the Lords did not insist.

The Marriages of Infants Bill (No. 1173) which was introduced on the 3rd of December differed in two respects from the Bill which had passed the House in the preceding Session.† Under the Bill of this Session any person who married a male child under the age of sixteen or a girl under the age of fourteen, without the consent of the legal guardian, rendered himself liable to imprisonment for six months without bail or mainprize, instead of incurring "the penalty of *præmunire*," the punishment fixed in the previous Bill. By the provisions of the Bill of 1697 a mother who married a second time could still remain the guardian of her children by her first husband if so appointed by the Lord Chancellor. The Bill of this Session definitely took from her the right of guardianship, which was vested in the trustees of the father's will unless he should himself have appointed a guardian in his will. The Bill passed the Lords, but was thrown out in the Commons.

The great expense and delays caused in the Courts of Law and Equity led to the appointment of a Select Committee to inquire into the matter, and to draw up a Bill to restrain any abuses that might be found to exist (No. 1200). The Committee heard evidence from the two Chief Justices, the Chief Baron, and the principal Attorneys practising in the various Courts. As a result of the enquiry a Bill was brought in to restrain the great expense and length of suits in the Courts of Law and Equity. The Bill was sent to the Commons on the 8th of April 1698, where it was rejected after second reading.

* A long return was made to the House of Commons by Mr. Secretary Vernon on 31st March 1698 of the list of persons licensed under the Act to correspond with King James. C. J. XII., 186-7.

† Cp. Nos. 1158 and 1159 of Vol. II., MSS. of the House of Lords, New Series.

The Juries (Return) Bill (No. **1273**) was intended to make more effectual two Acts of Parliament which had been passed earlier in the reign. By an Act (7 and 8 Will. III., Chap. xxxii) the constable, tythingman or headboroughman was ordered to make a return of the names and places of abode of persons qualified to serve on juries each year at Michaelmas Quarter Sessions. By a subsequent Act (8 and 9 Will. III.) Justices of the Peace were empowered to issue forth precepts to the constables, &c., requiring them to send in such returns. It was found, however, by experience that the mass of public business at Quarter Sessions did not allow sufficient time for the proper examination of such lists. This Bill was therefore brought in to enable the Justices at Quarter Sessions by order in Court to direct the constables, &c., to return their lists to two or more Justices at such convenient times and places as the Justices might appoint. The Bill was brought from the Commons on the 3rd of May 1698. It was not read 2^a and committed until the 10th of June. On the 29th of June the Commons sent a message to the Lords to remind them of the Bill, in consequence of which the House was ordered to be put in Committee on the Bill on the Tuesday following, which happened to be the day on which the Parliament was dissolved.

The Housebreakers Discovery &c. Bill (No. **1285**) was another measure of the existence of which the Commons found it necessary to remind the Lords. The Bill, which was brought from the Commons on the 14th of May, enabled any person who apprehended a burglar at work and prosecuted him to demand a sum of 10*l.* from the Sheriff of the County. The Sheriffs of London and Middlesex petitioned against the Bill (No. **1290**). They complained that two Acts had already been passed obliging Sheriffs to pay very heavy sums upon the apprehension and conviction of highwaymen, clippers, and coiners. They also pointed out that "they lay out for his Majesty's service more money than the profits of the County will defray so that the Sheriffs have been forced to satisfy such rewards out of their own money." This piteous appeal may have prompted the Lords not to proceed with the Bill.

The Creditors' Relief (Compositions) Repeal Act, against which there are several Petitions in this Volume (No. **1286**) was passed to repeal an Act which received the Royal Assent

the 1st of April 1697.* That measure, which enabled two-thirds of the creditors to make a composition with the debtor, was passed in order to prevent any recalcitrant creditor from preventing such an accommodation being arrived at when it was desired by the majority of creditors. It was found, however, that in practice the Act did not answer the purpose for which it was intended. A Bill was therefore brought in to repeal the existing Statute, because, as is stated in the Preamble, "Many fraudulent practices have been committed by making pretended agreements with persons who were not real creditors and for greater advantages than what were expressed in such compositions, which practices have (as there is just cause to fear) occasioned much perjury."

Another Bill, which had reference to the law with regard to creditors and debtors, was the Creditors' Further Relief (Escapes) Bill (No. **1299**). It was brought from the Commons on 3 June 1698. The Bill was intended to make clear the rights of the various persons who claimed to have mortgages upon the offices of Marshal of the King's Bench and Warden of the Fleet respectively, in order to carry into effect an Act (8 and 9 Will. III. c. xxvii.) which had been passed to insure the actual imprisonment of debtors within the prisons of the King's Bench and the Fleet.† It was feared that the Act would have little or no effect by reason of "the savings of the pretended rights of several persons as mortgagees, particularly named in the said Act, in and to the said offices of Marshal of the King's Bench and Warden of the Fleet respectively." Various persons who claimed to hold mortgages upon the two offices in question petitioned against the Bill (No. **1301**) which was referred to a Select Committee. There were no further proceedings before the Prorogation on the 5th of July.

The Smoak Silver, &c., Bill (No. **1308**) is practically identical with a clause in the Sheriff's Bill, which was brought in on 5 March 1696-7. (*See H. of L. MSS., Vol. II. (New Series), No. 1136*). The intention of the Bill was to take away from the Sheriff the right of levying fines for non-attendance at his Court of the Tourne, or of exacting "the duty called Smoak

* *See No. 1116, H. of L. MSS., Vol. II. (New Series).*

† *See H. of L. MSS., Vol. II. (N. S.), p. xxiv.*

Silver, Peter Pence, or Common Fine." Smoak Silver seems to have been a rate of 6*d.* which was levied in lieu of tithe wood.*

The Defective Titles (Concealments, &c.) Bill (No. **1369**) was an attempt to protect persons who had purchased lands for valuable consideration from suits instituted in the King's name under the pretence that such lands in reality belonged to the Crown. The Bill enacted that no such suits should be instituted in the King's name with regard to "any manors, lands, tenements, rents, tithes or hereditaments, other than liberties or franchises, by reason of any right or title accrued and grown fifty years past or more before the first day of January 1698, and now *in esse*." The Corporation of London petitioned against the Bill, which it was feared would prevent the recovery of any part of their estates, the rentals and evidences relating to which had been destroyed in the Great Fire (No. **1398**). This Petition was read on the 13th of March. A Petition of Robert Pellicon, on behalf of himself and others, executors and administrators of many creditors of King Charles I., was rejected on the 28th of April. The Bill did not get further than the Committee stage.

The Papists (Disinheriting of Protestants) Bill (No. **1419**) which was brought from the Commons on the 24th of March 1698-99, was less drastic in its scope than a Bill under the same title, which had reached the Committee stage in the Lords in 1696.† The most important provision in the Bill of this Session, which was not in the previous Bill, was the clause which took away from a widow, if she were a Roman Catholic, the guardianship and education of her children under the age of twelve. The Commons were obliged to remind the Lords of the existence of the Bill on the 25th of April. On the 2nd of May, in Committee of the whole House, the Judges and the Attorney-General were directed to draw up a Bill "to answer the purport of this Bill and present it next Session."

The promise which the King had made in his Speech at the opening of Parliament "effectually to discourage profaneness

* Wharton's Law Lexicon. Tenth Edition.

† See House of Lords' MSS., Vol. II. (New Series), No. 1055.

and immorality," no doubt led to the introduction of the "Atheism, Blasphemy, and Profaneness Suppression Bill." (No. 1217.) The Bill, which was piloted through the Lords by the Archbishop of Canterbury, was directed, as Luttrell notes, principally against atheism—against those who "deny that there is a God, or that shall deny any one of the Persons in the Holy Trinity to be God, or shall deny the Christian Religion to be true, or the Holy Scriptures of the Old and New Testament to be of Divine Authority." The Bill was sent to the Commons on the 26th February 1697. After reaching the Committee stage, it was laid aside in favour of a Bill with the same object which had already been introduced in that House. The Commons on the 15th of February had agreed to an Address to the King against profaneness and immorality, in reply to which William had promised to issue a proclamation directing the judges and justices of the peace to put into execution the laws already existing against profaneness and immorality.

The Commons, however, did not consider that the law was strong enough, for on the 26th of February, the day on which the Lords' Bill was sent to them, they instructed Sir J. Phillips and Mr. Edward Harley to bring in a Bill or Bills "for the more effectual suppressing profaneness, immorality and debauchery."*

On the 7th of March Sir J. Phillips, according to order, presented a Bill effectually to suppress blasphemy and profaneness. This Bill, which was much on the same lines as the Bill which had already been passed by the Lords, did not attempt to cope with the regeneration of morals. It was sent to the Lords on the 31st of March. Various amendments were made, with one of which the Commons disagreed, because they considered that it would subject "the Jews, who live amongst us, to all the pains and penalties contained in the Bill." (No. 1291.) After a Conference the Lords decided not to insist upon the amendment. The Bill received the Royal Assent on the 5th of July 1698.

In his reply to the Commons' Address of the 15th of February, the King expressed his desire that some more

* "Leave was given to bring in a Bill against prophanesse, swearing, drunkenness, and whoring; the Lords' Bill being chiefly against atheism." Luttrell IV., p. 349.

effectual provision might be made for the suppression of the pernicious books and pamphlets tending towards Socinianism. One of the effects of the vote of the House of Commons in 1695, which had abolished the censorship of the press, had been to enable men like the well-known Socinian philanthropist Thomas Firmin,* whose death occurred in this year, to advocate their unorthodox views on religion by means of pamphlets which were speedily scattered all over the country. This state of things was viewed with alarm by those in authority in the Church of England. On the 24th of February 1697 the Lords instructed the Judges to prepare a Bill to restrain the licentiousness of the press. No further steps seem to have been taken in the matter during the session of 1697-98.

Early in January 1698 a Printing Regulation Bill No. (1338) was introduced in the Lords. The Bill, had it been passed in the form in which it was originally brought in, would practically have re-established the censorship of the press by enforcing a strict registration of all printing-presses. Its provisions were considerably weakened during its passage through the House of Lords. It was sent to the Commons on the 28th of January, where the second reading was negatived without a division.†

This volume contains the usual number of private Bills, few of which appear to be of much importance. There are a great many papers relating to the Earl of Macclesfield's Divorce Act (No. 1197), which received the Royal Assent on the 2nd of April 1698. It is rather curious that no exact report should ever have been published of a case which created so much interest at the time, but the details of the story are too well known to make it necessary to deal at any length with it in these pages. The most interesting point with regard to the Act is that it was the first Divorce Bill which was passed by both Houses of Parliament and became law without a judgment first obtained in the Ecclesiastical Court. The reason for this departure from the ordinary practice was attributed to the conduct of Lady Macclesfield, "who spun out the time till the Parliament

* Burnet, vol. iv, 377. Oxford, 1823.

† A Bill with the same title was rejected in the Lords on the 24th of January 1701. L. J., XVII. 23.

was ready to rise, and then my Lord's friends advised him to begin in Parliament." The unusual procedure led to a protest in the Lords, which was signed by M. Halifax and E. Rochester. The only other point of interest in connection with this case is the claim which Richard Savage, the poet, subsequently set up to be the illegitimate son of Lady Macclesfield by E. Rivers. The papers which appear in this volume, as well as the manuscript depositions in the suit at Doctors' Commons, have already been examined by Mr. W. Moy Thomas, who in four articles published in "Notes and Queries," comes to the conclusion that Savage was an impostor.

Leighton's Bill (No. **1199**) is another chapter in a contest for the office of Warden of the Fleet, which had been going on for some years. The Bill was an attempt of Baldwin Leighton, Esq., to upset a decision arrived at in the Court of Chancery that the office of Warden of the Fleet, when forfeited by the misconduct of the holder, reverted to the person having the inheritance and not to the Crown.

A measure which illustrates the simple means which were found sufficient at this period to obtain the consent of the inhabitants of towns to the breaking up of their streets and other such purposes is the Bishop of Winchester's (Alverstoke) Act (No. **1250**). The Contractor obtained permission to break up the streets in Gosport and Fortune for the purpose of laying down pipes, in return for a sum of 10*l.* paid by him towards the building of a chapel. The consent of the inhabitants of Alverstoke was secured "in consideration of 20*s.* to be spent on a treat to them at the Ship-on-Wheels."

The petition of Caryll, Viscount Molyneux against the Liverpool (Parish Church) Act (No. **1427**), is of interest as showing the relative importance of the parishes of Liverpool and Walton a little over 200 years ago. The Bill proposed "to make the town of Liverpool, which is within the parish of Walton, and about a fifth part thereof, a distinct parish, and to erect a church in the said town besides the parochial chapel that is now there."

Vyner's (Creditors' Relief Act) (No. **1363**), which received the Royal Assent on the 24th of March 1698, marked the final settlement of the affairs of Sir Robert Vyner, an influential citizen of London, who played a prominent part in public affairs

during the reign of Charles II. Vyner was a well-known Goldsmith and Banker, who became Lord Mayor in 1674, the same year in which he was made a Baronet. On several occasions he advanced very large sums to the King. The closing of the Exchequer by the Government, which ruined many of the principal bankers, put an end to Vyner's business. Some attempts were apparently made to save him from bankruptcy. He was paid an annuity out of the Excise, and his creditors were ordered not to sue him for his debts. In spite of this order they obtained in 1684 a Statute of Bankruptcy against him. He died four years later. The efforts of his nephew and heir Thomas Vyner to come to terms with his creditors were not successful until the passing of this Act.

A great many Estate Bills were introduced in 1697-1699, which in almost every case were brought in to effect the sale of land in order either to pay off debts, or to make jointures. The Bill referred to in the Petition of Don Phelipe de la Guerra Agent and Consul to the King of Spain (No. **1226**), was, however, of rather a different character. It was introduced by the relatives of Sir William Godolphin to destroy the Will which he had made at Madrid in March 1696, by which he instituted "for his universal heir, his soul, to the end that, as far as may be convenient for his salvation, and the suffrage thereof, she may inherit the same, with the blessing of God."

Ettrick's Estate Bill (Nos. **1260**, **1261**), which was rejected by the Lords on the 4th of May 1698, had reference to a case of some interest. Anthony Ettrick married Jane Starling, grand-daughter and heiress of Sir Samuel Starling, a rich London Alderman. Jane died before she came of age, and this Bill was brought in to enable Ettrick to sell parts of her inheritance to pay off the various sums of money which he had borrowed on the strength of his wife's expectations. The Bill was opposed by the heirs-at-law of Sir Samuel Starling, and also by John Knott, who asserted that he was the lawful husband of Jane, although two years after his marriage Ettrick had by "unlawful and indirect means" likewise married the lady.

This volume contains a great many papers dealing with the case of Charles Duncombe, the well-known banker, who, with Bartholomew Burton and John Knight, two prominent

Treasury officials, was accused of falsely endorsing Exchequer Bills. The Duncombe Affair gave rise to great political excitement, and led to a quarrel between the two Houses which at one time threatened to assume serious proportions. Duncombe, who had occupied the post of Cashier of the Excise, was the leader in an attack made upon the Government in the House of Commons early in the Session of 1697-98. Montague was the Minister against whom the attack was principally directed, but he succeeded not only in refuting the charge of speculation which was brought against him, but also in proving that the conduct of Duncombe himself had been distinctly open to suspicion. An inquiry was instituted by which it was discovered that grave irregularities had been committed with regard to the issue of Exchequer Bills. Duncombe acknowledged in the House of Commons that he had put false endorsements on many of these Bills. He was sent as a prisoner to the Tower, and a Bill of pains and penalties was passed against him by the Commons. The Bill (No. 1228) reached the Lords on the 1st of March 1697-98.

It was clear from the first that this measure would meet with considerable opposition in the Upper House. It was admitted that Duncombe had done nothing actually illegal in making payments in Exchequer Bills, and his friends hoped that the Lords would throw out the Bill on first reading "as entrenching upon their judicature."* Such a course of action, in view of the jealousy between the two Houses and the excited state of party feeling, might have led to a political deadlock.

The Bill was read 1^a in the Lords on the 4th of March. It was resolved on division, by 48 votes to 36, to read the Bill a second time. On the 11th of March a conference was held with the Commons upon the subject-matter of the Bill (No. 1232), which is reported at length in the Journals, after which it was ordered that Counsel be heard for and against the Bill. On the 15th Counsel were called in and evidence was brought to prove the truth of the allegations in the Bill. Da Costa, the "knavish Jew" referred to by Macaulay, explained the nature of his transactions with Duncombe. "Da Costa says he contracted

* Letters illustrative of the Reign of William III. from 1696 to 1708, addressed to the Duke of Shrewsbury by James Vernon, Esq., Secretary of State, edited by G. P. R. James, Vol. II., p. 19.

with Mr. Duncombe for some Exchequer Bills. He had eleven Bills, 7,000*l.*, and more, and gives account how Mr. Duncombe paid him. He could not get his money in the Exchequer, and cites the days of payment. I delivered the Bills as I had them from the L. Ranelagh's office, and he said I must sign them, and I did several of them. Mr. Duncombe said: Put your name or any name to them, as I did. He told [me] the Bills must be signed. I endorsed my own name and other names. I wrote Peter Jones. He did not name any name to me; he said only my name or any name. I signed several before I made any scruple."

Sir Bartholomew Shore, Duncombe's Counsel, answered the allegations in the Bill very effectively, and made clear the unnecessarily strong action which the House of Commons had taken in the matter. "We hope," said he, "you will consider the nature of this Bill. This is to punish a crime when but first thought to be so. Every precedent begets another. Here is no design to destroy the Government. I hope it will never be said our laws cannot give remedy. There is a remedy for this matter. If an offence, an indictment If we stood before Westminster Hall, we think we had law for us. We affirm no false endorsement. The King has lost nothing This was a good, lawful payment, and could not be refused.' Various witnesses were called to prove that orders had been given that Exchequer Bills should be accepted for money due in specie. The Bill was read 2^a, but on the question "whether this Bill shall be committed?" it was resolved in the negative by 48 votes to 47. It was then moved to allow Proxies, but the House came to the important decision that "no Proxies for the future shall be made use of in any judicial Cause in this House, although the proceedings be by way of Bill."

The rejection by the Lords of the Bill to punish Duncombe was naturally followed by the rejection of the Bills for the punishment of John Knight, late Receiver-General of the Customs (No. 1257), and of Bartholomew Burton, late Cashier of the Excise (No. 1258), who were both implicated with him in the false endorsing of Exchequer Bills.

The action of the Lords in throwing out the Bill against Duncombe has been criticised adversely. The Bill was only

rejected by the casting vote of the Duke of Leeds, and it is perhaps not unnatural to suppose that illicit means were employed to influence certain of the peers in favour of Duncombe. But whatever the means may have been which led to the rejection of the Bill there can be little doubt that the decision of the Lords was a wise one. "The Bill for punishing Duncombe," as Macaulay remarks, "was open to all the objections which can be urged against the Bill for punishing Fenwick, and to other objections of even greater weight. In both cases the judicial functions were usurped by a body unfit to exercise such functions. But the Bill against Duncombe really was, what the Bill against Fenwick was not, objectionable as a retrospective bill. It altered the substantive criminal law. It visited an offence with a penalty of which the offender at the time when he offended had no notice."

The promise which the King had given in his Speech at the opening of Parliament to inquire into "such corruptions or abuses as may have crept into any part of the administration during the war," coupled with the damaging exposures with regard to the financial methods of the administration brought to light by the Duncombe case, no doubt led to the appointment on the 23rd of March of a Select Committee to consider the matter and practice of Exchequer Bills (No. **1248**). The Committee heard some interesting evidence from the Treasury officials and the Commissioners of Exchequer, which explains the diverse views that were held in official circles with regard to the legal nature of Exchequer Bills. The Committee met several times, but do not appear ever to have made a Report to the House.

Two trials of the notorious Lord Mohun are referred to in this volume. On the first of these occasions (No. **1181**) he was charged with the murder of Captain William Hill, who was killed on the 14th September 1697, in a tavern brawl. Lord Mohun was confined in the Tower from the 10th of January to the 14th of April, when he petitioned "to be bailed, being much impaired in health." He was bailed out next day. On the 4th of July, having obtained the King's pardon, his bail was discharged.

In November 1698 Lord Mohun and his friend the Earl of Warwick, who had been his companion in some of his earlier

escapades, were engaged in an affray in Leicester Square in which Captain R. Coote was killed. On the 28th and the 29th of March following Warwick and Mohun were tried by their Peers in Westminster Hall. (No. **1380**). Warwick was found guilty of manslaughter; upon demanding the benefit of his Peerage he was discharged, with a warning "never to fall into the like misfortune" again. Mohun, who on this occasion at anyrate, appears from the evidence to have taken no active part in the quarrel, was discharged.*

The affair of Captain Charles Desborow (No. **1377**) involved a long inquiry by a Select Committee of the Lords. The case was referred to the same Committee which had already been appointed to consider the state of the navy and fortifications (No. **1371**).

Captain Desborow had commanded the *Mary* galley, one of the vessels in the squadron which had been sent early in 1697, under the command of Commodore Norris, to convey troops to Newfoundland. Norris's instructions were to take or destroy any French vessels which might fall into his power, to assist the land forces to the best of his ability, and to harry the French fishery on the Bank of Newfoundland. The expedition encountered little or no opposition from the French and took several prizes. It arrived at its destination early in the summer. At Newfoundland the squadron seems to have been employed as a fishing fleet, with the result that the ships speedily became unfit for war purposes. On the 21st of July five French ships appeared off St. John's. These were at first supposed to belong to a squadron under de Nesmond which had sailed from France in pursuit of Norris's fleet. A Council of War, composed of the officers of the land forces as well as the sea captains, was held on board the English flagship, the *Monk*, at which it was decided that as the French squadron under de Nesmond was said to be considerably stronger than the English, "the squadron do continue in the harbour of St. John's for the general security, and send a clean frigate out to make their squadron and gain us further intelligence." A vote was taken upon this resolution. Eight of the sea captains were in favour of attacking the French whilst four supported the twelve

* Howell's State Trials, Vol. XIII. pp. 993, 1034.

military members of the Council who were anxious for the fleet to stay in the harbour. On the following day it was reported that the five French ships were part of de Pointis's squadron returning from the sack of Carthagena. Despite this information it was decided to abide by the decision of the previous day. On the 26th of July Desborow in the *Mary* galley was sent out to discover what the French were doing. On the 28th he returned to St. John's and reported that five French ships were in Conception Bay and that there were no other ships either to the northward or in the offing. Norris appears to have been unconvinced by this report and decided to keep his fleet in harbour, although it was agreed, at another Council, that the land forces, which apparently upon the first appearance of the French squadron had taken refuge on board ship, should be put on shore again. There are no records of any further Councils of War, but it would appear from the evidence that Desborow was again sent out to watch the movements of the French ships. He caught sight of them at sea off Cape St. Francis, on the evening of the 29th of July, but they instantly extinguished their lights and disappeared in the fog. After visiting Carbonear, he returned to St. John's which he reached on the 31st. On the 11th of August a Court Martial was held at which, by a unanimous vote, Desborow was dismissed from his command "for neglect of duty and breach of orders." The depositions of various officers and men of the *Mary* galley (Annex (b)) seem to have been the evidence upon which the Court Martial convicted him, but the reasons given for their verdict by various captains who appeared as witnesses before the Select Committee on the 23rd of March seem singularly inadequate for turning an officer out of the Service. The worst offence Desborow appears to have committed was to have landed at Carbonear to make inquiries about the French, instead of at once returning to St. John's with the information that de Pointis's fleet had sailed.

In his evidence before the Select Committee Desborow explained that as soon as he got home from Newfoundland he sent a letter to Lord Orford, the First Lord of the Admiralty, complaining of his dismissal, and bringing charges of corruption and favouritism against Norris. As no attention was paid to

this letter by the Admiralty, Desborow's petition was presented to the House of Lords by the Earl of Oxford. The general dissatisfaction with the administration of the Navy at this period probably induced the Select Committee to inquire very carefully into this affair. The result of their labours was the Address agreed to be presented to the King on the 14th of April. This Address is printed in full in the Lords' Journal. In July following Desborow was appointed to the command of the *Weymouth*, and Norris was suspended from his command. In March 1701, however, the case was again brought up, and evidence was heard in favour of Norris, with the result that the House, although it renewed its Address of the previous year so far as it concerned Desborow, agreed to present another Address to the King in favour of Norris's restoration to his command. Several Lords protested.* The Protest appears most just, considering the grave charges of neglect of duty which had been brought against Norris by Desborow, and confirmed in an Address to the King by the House, and also the further charges of embezzling prizes of which Norris had also been unable to clear himself satisfactorily (No. 1448).

There are the usual number of Appeals during the period covered in this Volume. Very few of these appear to be of any special importance, but an exception must be made in the case of an Appeal by the Society of Ulster against a judgment of the Irish House of Lords upon the Petition and Appeal of the Bishop of Derry against an Interlocutory Order and several subsequent Orders made in the Court of Chancery in Ireland (No. 1194). The Society based their Appeal to the House of Lords in England upon the ground that there was no appeal from the Court of Chancery in Ireland to the Irish House of Lords. After hearing Counsel the Lords resolved that "the Appeal from the Chancery in Ireland to the Lords in Ireland is *Coram non iudice*." The proceedings in the case in question were accordingly void, and directions were sent to the Lord Chancellor of Ireland to reinstate the Society of Ulster in their possessions.

The question of the Appellate jurisdiction of the Irish House of Lords came up again in the following year on an Appeal by

* See "Protests of the Lords," Thorald Rogers, Vol. I., p. 144.

Edward Ward against a decision of the Irish Lords reversing an Order of the Chancellor of the County Palatine of Tipperary (No. 1368). The House of Lords in this case re-affirmed their resolution of the previous year.

The real interest of these cases lies in the fact that they formed part of an attempt of the Irish Parliament to assert its independence. The action of the English Parliament in passing measures designed to injure the Irish wool trade caused considerable ill-feeling amongst the English Colony in Ireland.* An attempt was therefore made to prove that Ireland was an independent kingdom, and, consequently, not bound by English Acts of Parliament. An English gentleman, resident in Ireland, to whom Swift alludes in the celebrated No. 4 of the "Drapier's Letters" as "the famous Mr. Molyneux," published a Tract,† in which he endeavoured to prove that Ireland was a sovereign Kingdom. This work was brought to the notice of the House of Commons, who voted that it was an unconstitutional publication and a breach of privilege. They passed an Address to the King, praying him "to discourage all things which may, in any degree, tend to lessen the dependence of Ireland upon England."‡ The firm action of the Upper House in the case of the Appeal of the Society of Ulster proves that the Lords were no less anxious to prevent any encroachments upon their privileges.

Amongst the numerous papers and precedents which were handed in in support of the claims of the Irish House of Lords to supreme appellate jurisdiction in Ireland was a copy of the "*Modus tenendi Parliamenta et Consilia in Hibernia*" (No. 1195, Appendix (b) (1).) This document, to which Molyneux constantly referred in his tract, purports to be a copy adapted by Henry II. for the use of Ireland of the well-known "*Modus tenendi Parliamentum*," which was regarded by no less an authority than Sir Edward Coke as a description of the constitution of the Parliament of England in the days of William the Conqueror.§ Subsequent writers, including John Selden||

* Macaulay, *History of England*, Vol. V., p. 54. Edit. London 1861.

† "The Case of Ireland's being bound by Acts of Parliament in England, Stated," by William Molyneux, Esq.

‡ C. J., XII., 324-325, 337.

§ Coke, 4th Instit., c. 1.

|| Selden, Tit. Hon., Par. 2, c. 5, Sect. 26. Edit. London 1672.

and William Prynne,* have attacked the authenticity of both these documents. It is now generally admitted that the English Modus does not date from the time of William I. But, as the late Dr. Stubbs has pointed out, "it is not, therefore, a modern forgery. It is found in manuscripts of the 14th century, and although, on reference to contemporary writs and documents, it is found to be frequently misleading, it may be accepted as a theoretical view for which the writer was anxious to find a warrant in immemorial antiquity."†

The Irish Modus, although it is by no means an accurate copy, differs from the English original in no very material points. The document is perhaps more strictly constitutional in tone, which may be taken as a proof that it was drawn up at a considerably later period than the English original.

One or two other Appeals may be briefly noticed. John Cary's bequest of his property to his niece Elizabeth Willoughby, heiress of Lord Willoughby of Parham, on condition that within three years of the testator's death she married Francis, Lord Guilford, seems to have been dictated by his attachment to the family of the Lord Keeper North and his fear lest she should marry a Papist. At the time of Cary's death Francis and Elizabeth were a little more than twelve years old. The trustees disagreed; the marriage did not take place; and some years later Elizabeth married Mr. Bertie, a son of the Earl of Abingdon. The case came before the House in the form of an Appeal by Elizabeth against an Order depriving her of the estate in consequence of her failure to fulfil the condition on which it was left to her (No. 1204). The House decided that she should have the estate for life. A pamphlet on the case containing reflections upon the Court of Chancery was then brought to the notice of the House, and a message was sent to the House of Commons for leave for the author, Mr. Bertie, who was a Member of that House, to attend. The Commons desired a conference on the subject, which was held, but any friction between the two Houses was prevented by the action of the Earl of Abingdon, who apologised in his place to

* Prynne, *Brief Animadversions on, Amendments of, and Additional Explanatory Records to*, 4th Instit. of Sir F. Coke, pp. 1-11, p. 249. Edit. London 1669.

† *Select Charters illustrative of English History*, by William Stubbs, D.D., Bishop of Oxford.

the House of Lords and to the Lord Chancellor in his son's name, and the incident came to an end with an order for the paper to be burned by the common hangman.

In No. **1242** the Dean and Chapter of Durham endeavoured to defend the right of their tenant to build a quay on their property on the banks of the Tyne without the consent of the Mayor and Corporation of Newcastle-on-Tyne. No. **1346** was an attempt on the part of the executor of Dr. Thomas Wood, Bishop of Coventry and Lichfield, to obtain a revision of a decree disallowing his claim for a sum of 1,969*l.* 10*s.*, representing legacies which he had paid out of the money received by him as executor. This chapter in a history of disputes extending over a long period of time, relates to the marriage of Sir Henry Wood's daughter to the Duke of Southampton, and to transactions connected with that marriage which came before the House on various occasions.

The papers relating to Privilege are not very numerous. There are two cases of the arrest of servants of peers. The Earl of Kent complained that his bailiff of the manor of Goodrich had been arrested and kept in gaol for six days at the suit of Thomas Fletcher, in an action of trespass (No. **1213**), and the Duke of Northumberland brought to the notice of the House that John Smith, his head groom, had been arrested at the suit of a London wine cooper (No. **1422**). Smith had already been before the House in January 1692-93, when he gave evidence of his arrest and detention for fourteen days in Newgate.* On that occasion he admitted that the Duke paid him no wages.

There are some other complaints of breaches of privilege. The Earl of Carbery complained that Lord Herbert of Cherbury on the strength of a grant of arrears due from him to the Crown had served a writ of *scire facias* upon him and that his estate had since been ordered to be extended (No. **1203**). The Duke of Somerset stated that his mill and mill-dam had been destroyed by the servants of Sir John Ballentine (No. **1240**). The Earl of Northampton described how a number of persons tumultuously fished in the Nene at Earl's Barton, in a part of the river of which the sole fishing had belonged to him

* See 14th Report Hist. MSS., No. 657.

and his ancestors time out of mind (No. **1247**). Lord Say and Seale, who was travelling abroad, invoked the aid of the House to prevent his stepmother from ousting him from his estate during his absence (No. **1362**). The Under Sheriff of Essex petitioned to be indemnified from the consequences of a breach of E. Montague's privilege committed by certain persons under colour of a warrant which he had issued on a writ of *fieri facias* being brought to him on the suit of Luke Betts against Christopher Monk (No. **1364**). Four instances were brought before the House in which Privilege of Parliament had been made use of in order to obstruct the cause of justice. Elizabeth, Countess of Inchiquin, who had brought a suit in the Court of Arches to annul her marriage and for alimony, complained that her husband, Lord Howard of Escrick, refused to answer and insisted upon his privilege (No. **1185**). William, Earl of Derby figures in two cases in which petitions were presented to the House. In the first of these petitions, Lord Fairfax and Col. Widdrington, complained that the Earl was using his privilege to prevent them from selling the estate of the late William Stanley. Lord Derby answered that he claimed the estate as heir-at-law, and that the will under which his opponents claimed to act was obtained from Stanley on his death bed, when he was imposed upon by Papists and evil persons and persuaded to turn Papist (No. **1212**). The other Petition is from Lord Derby's brothers praying leave to sue him for arrears of annuity due to them (No. **1339**). The last case is that of the Bishop of St. David's (No. **1284**). Dr Thomas Watson, Bishop of St. David's, who was afterwards deprived for simony and other crimes and misdemeanours, is here charged by Robert Lucy, Registrar of the diocese and son of a former Bishop, with receiving the fees due to the Registrar for nine years and making use of his privilege to detain them. The House decided that in this case the Bishop was only a trustee and therefore had no privilege.

H. P. ST. JOHN.

CUTHBERT HEADLAM.

THE MANUSCRIPTS OF THE HOUSE OF LORDS.

1168. Dec. 3. King's Speech.—Draft of King's Speech on opening Parliament this day. L. J., XVI. 174-5. *In extenso.*

1697.

1169. Garter's Roll.—A Roll of the Nobility of England delivered to the Clerk of the Parliaments. *Signed* Tho. St. George, Garter. It contains 168 names. *Parchment Collection.*

No. 1168.

1170. Dec. 3. Test Roll (25 Car. II. c. 2).—Roll to contain the signatures of Lords to the Declaration in the Act of 1672 for preventing dangers which may happen from Popish Recusants. The only signature is that of L. Raby, 4 Jan. 1697. *Parchment Collection.*

[On 4 Jan. L. Raby took the oath and made and subscribed the Declaration. L. J., XVI. 187. Francis Ellison and Jeremiah Crowther testified that they saw L. Raby receive the Sacrament. MS. Min.]

1171. Dec. 3. Writ of Summons (V. Townshend).—Writ of Summons to Charles, V. Townshend. *Dated* 1 Dec. 1697. [Sat first in Parliament this day after the death of his father. L. J., XVI. 174.]

1172. Dec. 3. Writ of Summons (E. Jersey).—Writ of Summons to Edward, E. Jersey. *Dated* 1 Dec. 1697. [Introduced this day. L. J., XVI. 174.]

1173. Dec. 3. Marriages of Infants Bill.—Amended* Draft of an Act to prevent undue marriages of Infants, and for better securing the guardianship of them.

§i. Forasmuch as diverse good laws have been made to discourage children who have had left unto them by their parents, friends or relations, lands, tenements or hereditaments, or goods and chattels or credits, from contracting matrimony with loose, idle or disorderly persons, that have little or no estates in lands, tenements, goods or chattels, and also for the punishment of such loose, idle or disorderly persons that shall contract matrimony with such children, which have not proved sufficient to prevent the mischiefs thereby intended to be remedied. And therefore to avoid all manner of inconveniencies that may hereafter happen upon the like occasions; Be it enacted &c., that, from and after the first day of May 1698, if any person shall contract

* The amendments, shown by square brackets in the case of omissions and by italics in that of additions, were made in C. W. H. on 16 Dec. MS. Min.

1697. matrimony with any male child under the age of sixteen years, or with
 — any woman or maiden that shall be under the age of fourteen years,
 No. 1173. without the consent of the father, or of such person that by the laws
 now in force or by force of this present Act shall be guardian of
 such child, such marriage or contract of marriage shall be to all
 intents and purposes void and of no effect, and the party so marrying
 or contracting matrimony with such child, his or her counsellor,
 abetter, aiders or assisters to the solemnization of marriage, shall incur
 the penalty of *imprisonment for six months without bail or mainprise*.

§ii. And be it further enacted by the authority aforesaid, That if any
 mother shall happen to be a guardian to her child that hath an estate in
 lands, tenements, goods or chattels, or is thereunto entituled by the gift
 or kindness of any friend or relation,* shall take any husband after her
 right of guardianship shall accrue, that then, and from the time of her
 intermarriage with any such other husband, her guardianship shall cease
 and be determined as if she were actually dead; *and that then and in
 such case the trustee or trustees appointed by the will of the father of
 such child shall be guardian or guardians to such child, unless the
 father of such child shall by his will have appointed another
 guardian.*

[§iii. Provided nevertheless, and be it enacted by the authority
 aforesaid, That the Lord Chancellor or Lord Keeper or Commissioners
 for the custody of the Great Seal for the time being may, upon
 summoning such child and also such friends and relations of him or her
 at such times and in such manner as he or they shall think fit, appoint
 such mother or any other person to be guardian of such child, unless
 the father hath otherwise appointed the guardianship.] [Read 1^a this
 day. L. J., XVI. 175. A Rider was added to the engrossment on third
 reading, but its contents are not recorded. *Ib.* 182. One amendment
 was made by the Committee of the Commons to leave out "6" and
 insert "12" in the last line of Pr. 1. C. J., XII. 33. The question
 that the Bill do pass was resolved in the negative. *Ib.* 37.]

Annexed:—

(a) 16 Dec. Draft Amendment in Clause ii., marked above by
 italics. [Made in C. W. H. and reported this day. MS. Min.]

1174. Dec. 6. Writ of Summons (E. Orford).—Writ of Summons
 to Edward, E. Orford. *Dated* 1 Dec. 1697. [Introduced this day.
 L. J., XVI. 176.]

1175. Dec. 6. Writ of Summons (L. Craven).—Writ of Summons
 to William Craven de Hampstead Marshall, Chevalier. *Dated* 1 Dec.
 1697. [Introduced this day. L. J., XVI. 177.]

1176. Dec. 8. Dolphin and Wife *v.* Haynes.—Petition and Appeal
 of William Dolphin and Katherine his wife. The late Paris Slaughter,
 a merchant of London, being guardian of the Appellant Katherine, who
 was left an orphan when about 7 or 8 years old, put her to board in
 1680 (having then about 600*l.* of her money in his hands) with his
 kinsman Chambers Slaughter, who lived about 3 miles from Worcester.
 She remained there six years. The Respondent, who lived at Worcester
 also and had dealings with her guardian, supplied, at his directions,
 whatever money she or Chambers on her account required, which money
 her guardian constantly allowed and repaid to him. Katherine afterwards
 went to board at Worcester. Respondent, acting under similar
 directions, paid her 30*l.* on 5 Dec. 1691, and 10*l.* on 15 Feb. 1691–2,

* The word ("and") is wanted here, to make sense.

for which she gave him receipts. The Appellant William, being about to marry Katherine, deferred his marriage until her guardian had made up his accounts with Respondent, which having been done, her guardian, on 3 May 1692, paid her 607*l.* in discharge of what was due to her, and she and her guardian then executed mutual releases, and she destroyed all her vouchers. Appellants married on 13 May 1692, and Katherine's guardian died about a year after. Respondent on 23 Nov. 1695 brought a Bill in Chancery against Appellants and Paris Slaughter, the guardian's son, for the 40*l.*, and the Master of the Rolls, on 10 Nov. 1696, decreed payment with costs, the whole, as certified by the Master, amounting to 108*l.* 10*s.* 6*d.* Pray that this Decree may be reversed, Respondent ordered to answer, and proceedings stayed. *Signed* by Appellants. *Countersigned* Wm. Dobyns, J. Hoo. L. J., XVI. 178.

[At the Hearing on 12 Jan. *Sir Thomas Powys* and *Mr. Dobyns* appeared for the Appellants and the *Attorney-General* and *Sir Bartholomew Shore* for the Respondent. The Appeal was dismissed with 20*l.* costs. L. J., XVI. 192. MS. Min.]

Annexed:—

(a) 18 Dec. 1697. Answer of Francis Haynes. The Decree was not signed and enrolled in haste, as alleged, and the Lord Chancellor twice refused a rehearing, which was petitioned for on that account. The Appellant William has been arrested on an attachment for not obeying a writ of execution, and has applied to the Court to enlarge the time for his examination on certain interrogatories. Prays that the Appeal may be dismissed. *Countersigned* Tho. Vernon. *Endorsed* as brought in this day.

1177. Dec. 13. Greene's (New River Shares) Bill.—Draft of an Act for enabling John Greene, Esq., to dispose of four of his Shares in the New River Water.

Whereas by one Indenture Tripartite bearing date the ninth day of September 1685, and made between John Greene, of Enfield, in the County of Middlesex, Esq., and Giles Greene, son and heir apparent of the said John Greene, and since deceased, of the first part, Sir William Dolben, Knight, Serjeant at Law, of the second part, and Roger Gillingham, of the Middle Temple, London, Esq., and Thomas Darwin, of London, woollen draper, of the third part, the said John Greene voluntarily and of his own free will and pleasure, and without any manner of consideration to engage and induce him thereunto, did settle, or cause and procure to be settled, three six and thirtieth parts or shares of and in the Company's moiety of the New River Waterwork Cut and stream thereof, brought from Chadwell and Amwell in the County of Hertford to London, as the same then was and now are mixed with Sir Edward Ford's work, with their respective appurtenances. And also one six and thirtieth part or share of the King's moiety of the said New River Waterwork, as the same then was and still is mixed with Sir Edward Ford's work, with their appurtenances, on the said Roger Gillingham and Thomas Darwin and their heirs to the uses therein mentioned (that is to say) To the use and behoof of the said John Greene for and during the term of his natural life and from and after his decease to the use and behoof of the said Roger Gillingham and Thomas Darwin, their heirs and assigns for ever, upon the Trusts therein mentioned (that is to say) That they should permit John Hunt, of London, Brewer, and his heirs to receive sixty pounds yearly for ever out of the profits thereof until the said John Greene or his heirs should pay to the said John Hunt the sum of £1,000 in such manner as therein is mentioned. And upon further

1697.
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No. 1176.

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No. 1177.

Trust that they should permit the sum of sixty pounds per annum to be received out of the profits of the said premises by such person or persons as the said John Greene by any writing or writings or his last Will in writing so testified as therein is mentioned should direct and appoint, and in default of such direction by such of the children of the said John Greene and Johanna his wife as should be living at the death of the said John Greene and the heirs of such children equally to their own uses, until the sum of £1,000 should be paid to him, her, or them in such manner as therein is mentioned, and that they should suffer William Greene, one other of the sons of the said John Greene, and his heirs, to take and receive out of the profits of the said premises after the death of the said John Greene the yearly sum of sixty pounds until the sum of £1,000 should be paid to him or them in such manner as is therein mentioned. And upon further Trust that they should permit and suffer Johanna, the wife of the said John Greene, after the death of the said John Greene, to take and receive out of the profits of the said premises the yearly sum of sixty pounds during her natural life. And upon further Trust that they should suffer John Greene, the younger son of the said John Greene and Johanna his wife, after the deceases of the said John Greene and Johanna his wife to take and receive out of the profits of the said premises the yearly sum of sixty pounds, until the sum of £1,000 should be paid to him or them, in such manner as therein is mentioned. And upon further Trust that the said Roger Gillingham and Thomas Darwin and their heirs should, after the death of the said John Greene the father, permit the said four shares of the said New River Water so charged as aforesaid to be enjoyed by the said Giles Greene during his natural life and after his decease by all his sons successively in tail male, and for want of such issue by the said William Greene during the term of his natural life and after his decease by all his sons successively in tail male, and for want of such issue by the said John Greene the son for and during the term of his natural life and after his decease by all his sons successively in tail male, And for want of such issue by the right heirs of the said John Greene the father, with a power therein contained for the said John Greene the father to make a jointure out of the premises to the wife or wives of any of the said sons in such manner as therein is mentioned and with powers to the said Giles Greene, William Greene and John Greene the son respectively to make jointures out of the said premises to their respective wives in such manner as therein is mentioned. And with power to the said Giles Greene for making such provision for any of his children other than his eldest son, in such manner and upon such conditions as are therein mentioned, or to that or the like effect, as by the said Indenture, relation being thereunto had, may more fully and at large appear. And whereas the said Giles Greene did intermarry with Mary Soame and the said premises were duly charged with the payment of the annual sum of £300 to the said Mary for the term of her natural life, to commence from and after the decease of the said Giles Greene, and the said Giles Greene is since dead without issue. And whereas the said John Greene the father hath several younger children born since the making of the said Tripartite Indenture and the said John Greene the father is very desirous to make some alterations of and in the said four shares of the said New River Water and premises and to settle the same amongst all his children for their provisions, maintenances, and preferments, and for payment of his debts: But although the said settlement by the said Tripartite Indenture made and the uses and Trusts therein declared of the said premises were altogether

1697.

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No. 1177.

voluntary, without any consideration for the making thereof, save only the good will and pleasure of the said John Greene the father, and though the said Indentures have ever since the making thereof been kept, remained and continued in the hands and sole power and disposition of the said John Greene the father, yet, by reason that there is no power of revocation therein contained or reserved to the said John Greene the father, some doubts have arisen whether the said John Greene the father can in strictness of law make any alteration of the said settlement, and, if he should make any such alteration thereof, whether the same would be good and effectual in the law against all the said Trusts in and by the said Settlement declared. And whereas the said John Greene the father, William Greene, and John Greene the son, for the clearing the said doubts and for the enabling the said John Greene the father to make a good and effectual settlement of the said four shares of the said New River Water and other the premises unto and amongst his said children in such manner as he shall think convenient, do most humbly beseech His Majesty that it may be enacted And Be it enacted &c. That the said four shares of the said New River Water and all other the premises shall from henceforth be vested and the same are hereby vested in the said John Greene the father and Giles Greene, of London, Gentleman, nephew of the said John Greene the father, and their heirs and assigns, In Trust nevertheless for the said John Greene the father, his heirs and assigns for ever, absolutely discharged of and free from all the uses, trusts, provisoes, powers, authorities and limitations in and by the said Tripartite Indenture mentioned, appointed, reserved or contained, yet subject nevertheless to the payment of the said annual sum of £300 to the said Mary Greene, the widow and relict of the said Giles Greene, for and during the term of her natural life as fully and amply, to all intents and purposes, as if this Act had never been made. Saving always and reserved to the King's most Excellent Majesty, his heirs and successors, and all and every other person and persons, bodies politic and corporate, their heirs and successors (other than and except the said Thomas Darwin and his heirs and the said William Greene and John Greene the son, and all the sons and children of the said William Greene and John Greene the son, and other than the children and issues of the said John Greene the father, and their respective heirs) all their Estates, Rights, Titles, Trusts, Claims and Demands whatsoever of, in, and to the said premises, or any part or parcel thereof, as fully and amply to all intents and purposes as if this Act had never been made. [Read 1^a this day and sent to a Select Committee which met on 12 Jan., took some evidence and adjourned, but apparently did not meet again. L. J., XVI. 178, 184. Com. Book.]

1178. Dec. 13.—Maesacker's* Naturalisation Act.—Amended Draft of an Act for the naturalisation of Gerard Maesacker and others. The only amendment of the Lords is to add the name of Isaac Geilnick. Com. Book, Dec. 22. The Commons further amended the Bill by adding the names of Stephen Seignoret, Peter Abraham Thuynman, Abraham Henckell, Matthias Giesque, Walter Marchant, and Peter Rouviere. C. J., XII. 57. [The Bill was read 1^a this day. Royal Assent 7 March. L. J., XVI. 179, 228. 10 Will. III. c. 13 in Long Cal.]

Annexed:—

(a) 22 Dec. Certificates, produced in Committee this day that the following persons (named in the Act) had received

* Entered wrongly in L. J. as "Madsacker,"

1697. the Sacrament according to the usage of the Church of England,
— viz. :—
No. 1178. (1) Gerard Maesaeker, Nicholas de Waal, Nicholas Oursel
and William Standert, on 12 Dec. in the parish church
of Walbrook. *Signed* Will: Stonestreet, Rector of St.
Stephens in Walbrook, London. *Dated* 15 Dec. 1697.
(2) Mr. Isaac Geilinek, of the parish of St. Michael, Crooked
Lane, on 5 Dec. inst. at the parish church of St. Mary
Abchurch, London. *Signed* Tho. Whineop, D.D., Minister,
Joseph Watts, Churchwarden. *Dated* 15 Dec. 1697.
Attested by Joseph Fowler, of St. Mary Abchurch, and
Joseph Tuffnell, of St. Lawrence Pountney. Com. Book.

1179. Dec. 13.—Baker's Estate Act.—Draft of an Act for
the vesting in Sydenham Baker, Gentleman, an absolute estate of
inheritance in fee simple in a certain rent, messuages, lands and
hereditaments in the County of Devon, and securing to John Baker,
Gentleman, and Henry Baker, an infant, his son, moneys in lieu of
their claims thereunto. [Read 1^a this day; Royal Assent 14 Jan.
L. J., XVI. 178, 194. 9 Will. III. c. 5 in Long Cal.]

1180. Dec. 13. — Lloyd and others v. Carew and others.—
Petition and Appeal of Sir Evan Lloyd, Bart., and Dame Mary,
his wife, and Sidney Godolphin, Esq., and Susan his wife. Rice
Tanatt, Esq., died seized of several lands in the Counties of Salop,
Montgomery and Denbigh, and leaving three daughters, Mary,
Penelope and Susan. The last named afterwards married the
Appellant Godolphin. On a treaty of marriage between Penelope
with Richard Carew, Esq., a settlement was made by deed, dated
24 and 25 July 1674, whereby, in consideration of 4,000*l.* to be paid
by Carew to Mary, the two parts of the said lands belonging to Mary
and Penelope were vested in Roger Kynaston, Thomas Vaughan, John
(afterwards Sir John) Tremayne, and Edmond Fortescue, in trust to
make a partition, and settle the two parts to the use of Carew for life,
then to Penelope for life, then to the trustees, during the lives of Carew
and Penelope, to preserve contingent uses, and then to the sons of
Carew and Penelope in tail male, and, failing male issue, to their
daughters in tail, and, failing such issue, as to the moiety, to the sons or
daughters of Penelope by any other husband in tail, with remainder to
Carew's heirs, subject to a proviso that if no son or daughter of Carew
and Penelope should be living at the death of the survivor, and if the
heirs of Penelope should within 12 months after the death of herself and
her husband Richard Carew without issue pay to the heirs or assigns of
Carew 4,000*l.* in the Middle Temple Hall, then the remainders in fee
simple and the uses and trusts of and for those remainders limited to
Carew and his heirs should be void, and the said remainders should
remain, and such person to whom such conveyance, settlement and
assurance should be made to the use aforesaid should be seized thereof
to the use of the right heirs of Penelope. The marriage was had and
the partition made by consent, and the 4,000*l.* was paid to Mary, who
afterwards married the Appellant Sir Evan Lloyd. The legal estate
is vested in Charles Tremayne, as heir of Sir John Tremayne, the
surviving trustee. Carew and his wife Penelope in their life-time
levied a fine of the lands in Shropshire, and by deed of 10 Dec. 1681,
made between themselves and Sir John Carew and Thomas Carew,
declared the uses thereof to Richard Carew and his heirs. Penelope
afterwards died without issue, as also did her husband Richard Carew,
and thereupon, by virtue of the said proviso, the estate ought to revert

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to the Appellants Dame Mary Lloyd and Susan Godolphin, as the sisters and heirs of Penelope, upon their payment of the 4,000*l.*; but Richard Carew, contrary to the intent of the settlement, having devised the lands to Sir John Carew, his brother, (who is since dead), the Respondent Sir Richard Carew, his nephew, claims them by virtue of that devise. Appellants, on the death of Richard Carew, brought their Bill in Chancery to compel the trustee, Charles Tremayne, to convey the estate to them on payment of the 4,000*l.* to Sir Richard Carew, but the Court dismissed their Bill in Michaelmas term last. Pray that this Order may be reversed. *Signed* by Appellants. *Countersigned* Jo. Conyers, Hen. Poley, who certify that they “humbly conceive this ease fit for relief.” L. J., XVI. 179. [At the Hearing on 11 Jan. *Mr. Serjt. Wright* and *Mr. Poley* appeared for the Appellants, and the *Attorney-General* and *Sir Thomas Powys* for the Respondents. *Mr. Serjt. Wright* says the Cause was heard before the Lord Chancellor, and his Lordship dismissed Appellants’ Bill. Cites Fulmerston and Steward’s Case 32 Q. E. Fells and Browne in Crook’s Report. *Mr. Poley*. The case arises upon a deed drawn upon a marriage agreement. Cites *Crab v. Areher*. The limitation in the deed is read. *Mr. Attorney*. It was such a limitation as [it] was in the power of Penelope to bar by a fine. On 13 Jan. the Lord Chancellor, pursuant to Order of 11th, reported what had been offered by Counsel. After debate thereupon, Sir Simon Leech’s case and Long’s case *v. Reeve* were cited. *The Ld. Ch. Justice of the King’s Bench*, being asked what a perpetuity is and what the inconveniences of a perpetuity are, spoke to both these questions, and after some time the decree of dismissal was ordered to be reversed. MS. Min. On 24 March a petition of Appellants (annex (b) below) praying an explanation of the Judgment having been read, it was Ordered to add the following words:—“And it is further Ordered That “upon payment of four thousand pounds unto the said Richard Carew “(or into the Court of Chancery for his use), the Appellants be put into “possession of the Premises in question.” L. J., XVI. 246. On 13 March 1699 the Appellants petitioned the House that a fit person might be appointed as guardian to Sir Richard Carew until he should come of age, Lady Carew being dead. *Ib.* 545. On March 20, after hearing Counsel, the House made an Order that a Receiver should be appointed to manage the estate. *Ib.* 553.]

Annexed:—

(a) 20 Dec. 1697. Answer of Sir Richard Carew, Bart. Richard Carew by his Will devised the lands in question to Respondent’s father, Sir John Carew and his heirs, subject to the payment of his debts and legacies, and Sir John accordingly paid 4,855*l.* for the said debts. Respondent insists on his title under the marriage settlement and the deed, fine and Will. The Cause was heard on 18 Feb. 1694 before the Lord Chancellor, and again, on a case being stated, on 11 July 1696 before his Lordship, assisted by Lord Chief Justice Treby and Mr. Justice Rokeby, and on 6 Nov. 1697 the Court, after taking time to consider their judgment, unanimously dismissed the Bill. Prays that this dismissal may be affirmed. *Signed* by Respondent. *Countersigned* Tho. Powys, John Pratt. *Endorsed* as brought in this day.

(b) 24 March 1697–8. Petition of Appellants. The House having reversed the decree of dismissal, Petitioners hoped that on payment of the 4,000*l.* they should be let into possession, and applied for directions for relief to the Lord Chancellor, who declared, as Petitioners are informed, that he could not add

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anything to the Order of the House, but left them to apply to their Lordships to explain it. Pray for an explanation of the said Order accordingly. L. J., XVI. 246.

1181. Dec. 13. L. Mohun (murder of William Hill).—Petition of Charles, Lord Mohun. Petitioner was committed last term by the Court of King's Bench to the custody of the Marshal of that Court upon an Indictment relating to the death of William Hill, and is kept in close custody. Having sent to the Clerk of the Crown to make out a writ of *Certiorari* to remove the Indictment before their Lordships, he could not obtain the said writ. Prays their Lordships' directions on these circumstances. [On reading the above Petition this day, the House ordered the Clerk of the Crown to issue the writ, returnable immediate into the House. L. J., XVI. 179.—On 15 Dec. the Indictment was brought up accordingly. MS. Min. On 20 Dec. the House was informed that L. Mohun was in the lobby and had been brought there by writ of *Habeas Corpus*. The Marshal of the King's Bench, by direction of the House, brought L. Mohun to the Bar, and delivered the Writ and Return (Annex (a) below) which were read. L. Mohun was then committed prisoner to the custody of the Black Rod, and a Select Committee was appointed to consider of the Indictment &c. MS. Min. L. J., XVI. 183.

The Select Committee met on 21 Dec., E. Rochester in the Chair. Mr. White, the Coroner, being called in, says he has returned the Inquisition into the Crown Office. He produces the verdict of his Jury for manslaughter, which is read. Says there has been, since he took his Inquisition, a Bill preferred in the King's Bench, and the Grand Jury found *Billa vera*. The Bill was for murder. It is the Coroner's duty, notwithstanding the verdict of manslaughter, to prefer a Bill of murder. He is fineable if he does not do so. Being re-called, says he has known, when a Bill has been preferred for murder, that the Grand Jury have found *Billa vera* for manslaughter, but the Judges have blamed them for so doing, and have caused another Bill to be drawn anew. Particularly the L. C. Justice Bridgman did so, and sent for the Jury from Hicks' Hall and told them their duty. The verdict was then returned him and he withdrew. The following precedents were read—

L. Mohun's case, beginning 11 Jan. 1692.

E. Lincoln's case, 12 April 1692.

E. Pembroke's case, 19 March 1677.

Ordered, that the account given by Mr. White be reported. Com. Book.

On 22 Dec. the House ordered the L. C. Justice of the King's Bench to attend the next sitting day with the Coroner's Inquest. MS. Min. L. J., XVI. 184. On 23 Dec., after receiving the Report of the Select Committee (Annex (b) below), the House heard the *L. C. Justice of the King's Bench* as to the method of proceeding upon Indictments before the Grand Juries. MS. Min. On 10 January L. Mohun was sent to the Tower, and it was resolved to proceed to his trial in Westminster Hall. L. J., XVII. 191 (Annex (c) below). On 14 Feb. L. Lucas acquainted the House that the L. Mohun's behaviour is such that he has been forced to keep him under close confinement. MS. Min. On 1 March he petitioned that a time might be appointed for his trial. *Ib.* 222. (Annex (d) below). On 3 March a Committee met and read the proceedings on L. Mohun's trial in 1692. Sir Christopher Wren told them it would take sixteen days to prepare Westminster Hall, and five days to take away the scaffolds. Com. Book. The House, on the recommendation of the Committee, ordered the Lords with White Staves to desire His Majesty

that Westminster Hall might be prepared. *Ib.* 225. On April 14 L. Mohun petitioned to be bailed, being much impaired in health, and he was bailed out next day. *Ib.* 262, 263-4. (Annex (e) below) On 4 July, having obtained the King's pardon, he pleaded it at the Bar, and his bail was discharged. *Ib.* 341.]

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Annexed:—

(a) 20 Dec. Writ of *Habeas Corpus* and Return. *Endorsed as* brought in this day. L. J., XVI. 183.

(b) 23 Dec. Report of the Select Committee appointed to consider of the Indictment. [Agreed to 21 Dec., and reported this day. L. J., XVI. 185. *In extenso.*]

(c) 10 Jan. 1697-8. Petition of Charles, L. Mohun. Petitioner has been three weeks in the custody of Black Rod. Prays for an early day for his trial. *Endorsed as* read this day. [MS. Min. No entry in L. J.]

(d) 1 Mar. 1697-8. Petition of same. Petitioner has continued prisoner in the King's Bench under the Black Rod and in the Tower from the last day of Michaelmas term to this time, to his excessive charge and to the great prejudice of his health. Prays their Lordships to appoint some certain time for his trial. *Endorsed as* read this day. L. J., XVI. 222.

(e) 14 April 1698. Petition of same. Petitioner, by reason of his confinement, is very much impaired in his health, and has had two dangerous fits, and is advised by his physician that country air may conduce to his recovery. Prays to be admitted to bail. *Endorsed as* read this day. L. J., XVI. 262.

(e¹) 14 April 1698. Certificate of Sir Tho. Millington that he visited L. Mohun in the Tower last Saturday, and found him ill in bed, having had (as he was informed by those persons who were then with him) what he judged to have been an apoplectic fit. Thinks that the closeness of his confinement is prejudicial to him in this case, and that a freer air will be of great advantage towards his recovery. *Dated* 13 April 1698. Appended to preceding. [Read this day. L. J., XVI. 262.]

1182. Dec. 14. Writ of Summons (L. Chancery Soñers).—Writ of Summons to John Soñers, "Caneellario nostro Angliæ, Chevalier." *Dated* 2* Dec. 1697. [Introduced this day. L. J., XVI. 179.]

1183. Dec. 14. Lewin's Estate Act.—Amended Draft of an Act to enable John Lewin to sell certain messuages in Southwark for payment of debts. The only amendment is to insert the name Charles Yardley in the preamble. No amendment in the Commons. [Read this day; Royal Assent 7 March. L. J., XVI. 180, 228. 10 Will. III. c. 19 in Long Cal.]

Annexed:—

(a) 25 Jan. 1697-8. Affidavit of Edward Stracey, of London, Gent., that he had sent a copy of the Bill to Charles Yardley, of Styth, near Coventry, Clerk, who has a mortgage on the premises, with a power, annexed thereto, for him to give his consent to the Bill, which consent Mr. Yardley accordingly swore before a Master in Chancery Extraordinary at Warwick. Deponent received the Bill and Power back from him and produced them before the Lords' Committee, but having borrowed them from Mr. Relfe, the Clerk of the Committee, for production

* Wrongly dated in L. J. "sexto die Decembris" instead of "secundo," as in the Writ.

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in the Commons, he has dropped them somewhere about the Commons' lobby and cannot find them. *Sworn* 21 Feb. 1697 before Rob. Legard, Mgro. Cancell. *See* Com. Book.

1184. Dec. 15. Writ of Summons (L. Crew, Bishop of Durham).—Writ of Summons to Nathaniel Crew de Stene, Chevalier. [Sat first in Parliament this day after the death of his brother Thomas, L. Crew. He sat, "not being in his Bishop's Habit." L. J., XVI. 180.]

1185. Dec. 15. Countess of Inchiquin *v.* L. Howard of Eserick (Privilege).—Petition of Elizabeth, Countess Dowager of Inchiquin. Petitioner, having a jointure of 1,000*l.* a year settled upon her at her marriage with Edward, L. Herbert of Cherbury, her first husband, was married in August 1694 to Charles, L. Howard of Eserick, who in the following December, without any provocation, deserted her, and having sold her jewels and appointed a receiver of her estate to his own private use, went away with a woman, formerly the widow of one Edward Pyke, a citizen of London, into Holland, where he lived publicly with her and owned her as his wife. Petitioner has since discovered that L. Howard in 1689, long before his marriage with Petitioner, had married this woman and had had several children by her, whom he owned as legitimate. A suit in Chancery having arisen between Petitioner's tenants and receiver and L. Howard, by reason of L. Howard's prosecutions for recovery of the rents, a trial at law was directed. L. Howard then waiving his privilege, a verdict was found for him. Petitioner having since discovered new evidence, and having commenced a suit in the Arches for annulling the marriage and for allowance of alimony meantime, L. Howard now refuses to answer and insists on his privilege, and is prosecuting Petitioner's tenants and receiver with suits and distresses, thereby reducing her to ruin. Prays that L. Howard may not be permitted to take up his privilege. L. J., XVI. 180.

[The Petition was heard on Jan. 3, pursuant to an Order of 22 Dec. *Lord Howard* desiring to know whether the Counsel were at liberty to speak to the merits of the case, it was *agreed* that they should be restrained to the point of privilege only. *Mr. Attorney-General* (for Lady Inchiquin). We hope that in this case my Lord ought not to have his privilege. There was a Bill in Chancery presented, to which the Lord Howard answered. The Jury found it for my Lord upon a trial. The whole matter will come in question upon this libel in the Spiritual Court, and then, if it appear my Lord was married to another, they can dissolve this marriage. If my Lord only lives in adultery with another woman, this is a ground for a divorce, and so an allowance of alimony. If it appears my Lord lives with another woman, there is ground for relief as to allowance of alimony. This being but a consequence of the suit in Chancery in another Court, we humbly conceive your Lordships will not allow privilege in this case. *Sir Thomas Powys* (on the same side). The nature of the case—I hope, as to this, your Lordships will not allow privilege: Our suit is but in [the] nature of a defence in another Court. It is hard that a person may prosecute me in one Court and I may not defend myself in another. My Lord sues her, and the lady says she is not married. Undoubtedly my Lady is in the right to go into this Court. We insist my Lady is defensive. [The] next thing is, your Lordships will not allow privilege if my Lord Howard be really the husband to Lady Inchiquin. Then he stands upon privilege against himself, if she be his wife. Next, we say if my Lord has waived his privilege then we hope he may not resume it. The lady's steward was sued by a Bill of Interpleader, and this must

be a person not concerned. (In margin. 17 Jan. 1692, E. Banbury.) The Orders of the Court are made between Lord Howard and Lady Inchiquin, and the Orders are made upon the motion of Lord Howard and Lady Inchiquin. They read the Orders in Chancery, to show they were made on the motion of Lord Howard and Lady [Inchiquin] also. I allow there was a trial and a verdict against my Lady; but we hope he may not be at liberty to take up privilege when he pleases, and we hope he may not resume. *Mr. Filmer* for the Lord [Howard]. My Lord did consent she might have money out of the estate. Read [Lady Inchiquin's steward] upon his Bill of Interpleader was committed. My Lord's proceeding in this matter was as a man of honour. This suit was in Mr. Read's name. The Bill in Chancery was not dismissed. Your Lordships are desired to give leave to go into a Court that does not own the jurisdiction of this House. We hope this your Lordships will not permit. *Sir Bartholomew Shore*. We do not insist on privilege where it may be tried by law. She is deprived of nothing she can desire. She has all the remedy she can desire in any other Court than the Spiritual. This is a determination which is final. We hope there is no reason for their prayer, nor for the granting. We will try it anywhere else they can name. *Mr. Attorney-General* (in reply).—My Lady can go nowhere else, as her case stands, and as to alimony, it cannot be tried in any other Court. It is beyond all dispute there is a probable ground for this suit. *Sir Thomas Powys* (in reply).—We insist that this Court is not only the proper Court but the only Court where this can be determined; there is no place can finally determine it but in this Court. This is the law of the land, and they may as well complain of depositions in Chancery. No Court whatsoever can allow alimony but this, or whether they ought to cohabit. Her suit is only a defence. On 7 Jan. the Lord Chancellor reported what had been offered on the petition. Lord Howard was heard and related the method of proceeding. The House was *moved* to declare that Lord Howard ought not to enjoy privilege, he having waived it before. Lord Howard declared that, as to any proceedings in any Court whatsoever touching the nullity of marriage with Lady Inchiquin,* he is willing to waive his privilege, to which the House *agreed*. MS. Min.]

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Annexed:—

- (a) 22 Dec. 1697. Answer of Charles, Lord Howard. The Petition is scandalous and not essential to the matter which Petitioner would draw into question. Respondent never married any woman but Petitioner, as the latter falsely alleged in provocation, on some differences arising between them. Her steward John Read and tenants not only refused to pay to Respondent the rents of her jointure lands, but brought two Bills in Chancery against him, repeating the allegation of a previous marriage. Respondent, though he had recovered a judgment against Read for 1,000*l.*, submitted to answer and consented to waive his judgment and gave Petitioner 50*l.* to enable her to try the action. One William Holliday, a former servant of Respondent, and condemned in Newgate for felony, was wrought on in hopes of a pardon to swear he was present at the pretended marriage, and to bribe one Daniel Phillips, a fellow prisoner, and one Edward Prior, a former ensign under Respondent, to swear the same. Phillips, however, on being informed of his reprieve, said he

* In L. J. "touching any marriage precedent to his marriage with the said Countess." L. J., XVI. 189.

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would rather be hanged than perjure himself, but they did not venture to hang him lest he should disclose what they thought was a secret to Respondent, and he was accordingly transported. Prior being suspected of having divulged the plot, as in fact he had, a false charge of robbery on the highway was sworn against him and he was thrown into Newgate, with a view to his being hanged. Meanwhile Read, who had obtained an Order in Chancery to stay all proceedings against him, by contrivance permitted Petitioner to try her collusive action, at which trial Holliday swore to the premarriage, and Read making but a faint defence, Petitioner obtained a verdict as a *feme sole*. The Court of Chancery, resenting this abuse, set aside the verdict and committed Read to the Fleet prison. Respondent then pressed for a trial, which was had before C. Justice Holt by a special jury, who gave a verdict in his favour. Respondent never agreed to waive his privilege in any suit commenced in Petitioner's name, but only consented to go to trial with Read to clear his reputation. Petitioner, so far from being in want, has a considerable personal estate of her own; she received from Read, by Respondent's consent, 300*l.* in February last, and will be honourably provided for when she returns to her duty. Prays their Lordships not to oblige him, after such foul practices, to lay aside his privilege. *Signed* by Respondent. *Endorsed* as brought in this day. L. J., XVI. 185.

- (b) 28 May 1701. Petition of Charles, Lord Howard, Baron of Eserick. Petitioner has undergone the expense of a tedious suit in Chancery and Common Law for the vindication of his honour, and obtained judgment in his favour. He consented to try the Cause again in the Ecclesiastical Court, where the delegates gave sentence against him. He applied to the King for a Commission of Review. On hearing Counsel, the Lord Keeper gave it as his opinion that there was cause for a review, but no review has been granted. Prays the House either to petition the King for a Commission of Review or to order him to be prosecuted for felony. *Endorsed* as read this day, and Lady Inchiquin to answer. L. J., XVI. 710. [On 12 June. *Ordered* that the Attorney General do prosecute L. Howard for marrying of a second wife, his first wife being living. *Ib.* 740. On 21 June the Attorney General reports that he finds some difficulty in prosecuting L. Howard on the Statute of polygamy, it being pardoned by the general pardon, and a penalty upon any person who shall prosecute contrary to that Act. The Order of 12 June is read and this alteration is made by the House:—Instead of “for bigamy” insert “according to the Statute, for marrying a second wife, his first wife being living.” Then it is *moved* that an Address be made to his Majesty to desire him to grant a Commission of Review in the case of the L. Howard and Lady Inchiquin. After debate, the question is put “Whether this House shall address his Majesty to desire him to grant a Commission of Review in the case of the L. Howard and Lady Inchiquin.” The question being put, and the votes, with the proxies, being equal, and it being said that the L. Dudley was dead, whose proxy was used, and a debate arising thereupon, it is *ordered* that the declaration of this vote be respited until Tuesday next, at 11 o'clock, to the end the House may be further satisfied touching the truth of that matter. *Ib.* 764.]

1186. Dec. 16. Farington's Estate Act.—Amended Draft of an Act for vesting in Trustees, to be sold, certain lands of George Farington, Esq., lying in the Counties of Middlesex and Surrey (settled upon the marriage of William Farington his nephew) and, with the money arising thereby, for purchasing of other lands in Lancashire, where the ancient estate of the family lies, to be settled to the same uses. The only material amendments are to fill up the blanks with the names of Benjamin and Arthur Glegg, and to add the proviso saving the rights of John Dunn.* The amendments in the Commons are of a formal character. [Read 1^a this day. Royal Assent 7 March. L. J., XVI. 181, 228. 10 Will. III. c. 15 in Long Cal.]

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Annexed:—

(a) 14 Jan. 1697–8. Certificate of consent of Thomas Armetriding, vicar of Leyland, and Richard Wade, Master of the Free School of Leyland, Lancashire, to the passing of the Bill. *Dated* 13 July 1697. [Produced in Committee this day. Com. Book.]

(b) 14 Jan. 1697–8. Same of George Farington, and William Farington. *Dated* as preceding. [Produced in Committee this day. Com. Book.]

(c) 28 Jan. Lords' Amendments to the Bill. [Made in Committee 27 Jan. and reported this day. Com. Book. L. J., XVI. 204.]

1187. Dec. 20. Writ of Summons (L. Audley).—Writ of Summons to James Tutchett de Audley, Chr. *Dated* 12 Oct. 1695. [Sat first in Parliament this day, after the death of his father Mervin, L. Audley. L. J., XVI. 183.]

1188. Dec. 22. Officers of the House (T. Evison).—Petition of Thomas Evison. Petitioner was employed last Session by the Serjeant-at-Arms, as his Deputy, to execute two Orders granted for L. Coventry and D. Beaufort, and afterwards was sent with two summonses, one for E. Carlisle and the other for Simon Harcourt, Esq., all which he performed, and brought bills for the two former for the Serjeant to receive what fees were due when discharged. The Serjeant has received the fees but refuses to give Petitioner more than two guineas, telling him he was well paid by their Lordships' bounty, though it was always the custom to allow all Deputies a third of the fees received, bearing their own charge, as Petitioner did. Prays that the Serjeant may be ordered to pay such fees as are due. L. J., XVI. 184. [No further entries.]

Annexed:—

(a) 10 Jan. 1697–8. Answer of Peter Persehouse, Esq., Serjeant-at-Arms attending the House. Respondent having last season, upon the extraordinary occasion of Sir John Fenwick's attainder, two Orders directed to him, with commands to execute them with all possible dispatch, agreed with Petitioner (his own servant being then in the country upon the service of the House), in case what Petitioner should get from him before his journey and receive as a bounty from the Lords to whom he was sent should not suffice, to satisfy him out of his own pocket, and accordingly gave him 2*l.* 4*s.* 0*d.* Petitioner, on his return, owned he had been well gratified for his journey. He is not a Deputy of Respondent, who never knew nor employed him to

* This proviso, which was drawn by Baron Powys, was added at the instance of the promoters, on proof being given that Dunn was in a madhouse. Com. Book, Jan. 17, 27.

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execute the summons on E. Carlisle and Mr. Harcourt or on any beyond the present occasion. Prays that the Petition may be dismissed. *Endorsed* as brought in this day. [No entry in MS. Min. or L. J.]

1189. Dec. 23. *Hopkin v. Philpott* and another.—Petition and Appeal of Phillip Hopkin. Edward and Adam Jones in 1691 mortgaged to Petitioner and his late father Phillip for 99 years at a peppercorn rent two acres of ground, called Huntley's meadow, in the parish of Monmouth, and two closes of arable land at Ostbason, as security for a loan of 40*l.*, the lease to be void on payment of the 40*l.* on 22 June 1694, with 2*l.* 8*s.* 0*d.* interest. The mortgagors failing to pay, the premises were absolutely vested in Petitioner, after his father's death. Edward Jones becoming afterwards indebted to Petitioner in a further sum of 32*l.*, for which he offered to give him a judgment, Petitioner, finding that the two sums were as much as the mortgaged premises were worth, brought his ejectment and recovered possession. Respondents in 1694, pretending that they had purchased Huntley's meadow, demanded an account of what was due from Edward Jones to Petitioner, who produced one, which was stated by their Attorney, who admitted the two sums of 40*l.* and 32*l.* to be due, notwithstanding which, the Respondents tendered Petitioner only 53*l.* in full of the mortgage. Edward Jones and Respondents then brought a Bill in the Exchequer to compel Petitioner to come to an account for the profits of Huntley's meadow and to have the redemption thereof, and the Court, on 7 Dec. 1696, ordered Petitioner to assign it to Respondents, on receiving from them so much as should appear due for the said 40*l.* to the time of their tender, after deducting the rents and profits since their entry. The Master in his report certified that only 30*l.* 13*s.* 6*d.* remained due to Petitioner on account of the mortgage, and Petitioner's exceptions were overruled on 2 July 1697. Appeals from the decrees of 7 Dec. 1696 and 2 July 1697, for reasons stated, and prays that Respondents may be ordered to answer. *Signed* by Appellant. *Countersigned* Sa. Carter, Henry Champion. L. J., XVI. 185. [At the Hearing on 24 March Mr. *Scijt. Wright* and Mr. *Sutters* were heard for the Appellant, and Mr. *Northey* and Mr. *Stone* for the Respondents. MS. Min. The Appeal was dismissed with 20*l.* costs. L. J., XVI. 246.]

Annexed:—

(a) 21 Jan. 1697–8. Answer of Edward Philpott and James Harrie. The mortgagors in 1693, in consideration of 8*l.* paid by Philpott and in consideration that Harrie should on or before the 22 June 1694 pay to Appellant 40*l.* in discharge of the principal mortgage money, the interest being discharged before by perception of profits, sold Huntley's meadow and the equity of redemption to Harrie in fee, in trust for Philpott. Respondents accordingly tendered Appellant the 40*l.*, and, on his refusing it, tendered him 15*l.* more, desiring him to take what was due for principal and interest (if any due) in satisfaction of the mortgage, which he also refused to accept and afterwards wasted the premises by cutting down trees, &c. The decrees complained of were made after a full hearing. Pray that they may be confirmed, and the Appeal dismissed with costs. *Signed* by Respondents. *Countersigned* Edm. Brydges. *Endorsed* as brought in this day. MS. Min.

(b) 3 March 1697–8. Petition by Respondents. The Appeal is brought merely for delay, and Appellant has not yet taken a

copy of Respondents' answer. Pray that the Appeal may be dismissed with costs. L. J., XVI. 224. [Read this day and Cause ordered to be heard on the 24th inst.]

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1190. Jan. 4. Lassells' Estate Act.—Amended Draft of an Act to enable Rebecca Lassells, widow, to sell copyhold lands *and houses* in Ealing, in the County of Middlesex. The only amendments, besides adding the words in italics in the title, are to insert the date, 25 March 1698. No amendments in the Commons. [Read 1^a this day. Royal Assent 7 March. L. J., XVI. 187, 228. 10 Will. III. c. 14 in Long Cal.]

1191. Jan. 4. Treason (Correspondence with James II.) Act.—Amended * Draft of two Clauses as follows:—"And be it further enacted by the authority aforesaid that all and every person and persons who shall be privy to, or know of, the procuring, granting, accepting, receiving or taking by any person or persons whatsoever any charter of pardon or other grant as aforesaid shall on or before the discover all and every matter and thing by them known of or concerning any such pardon or grant to his Majesty in Council or to one of his Majesty's principal Secretaries of State in the presence of two or more credible witnesses, and in default thereof shall *be guilty (sic)*.

And *be it further enacted by the authority aforesaid that in case [such] any Secretary of State shall not [by himself or some other person] within one month after every such pardon or grant delivered to him, or discovery of every such pardon or grant procured, accepted, received or taken by any person whatsoever made to him, inform his Majesty thereof in Council, such Secretary shall be for ever † incapable of any office or employment under his Majesty his heirs and successors."* [The first of these Clauses is noted marginally: "Agreed to be laid aside," and the second is noted as rejected upon question this day. The Bill was brought from the Commons on 22 Dec. L. J., XVI. 184. In C. W. H., on 4 Jan., a Clause marked "A" (Annex (a) below) was added to the Bill. A Clause was offered (see above) and a Clause for persons guilty by this Act to have the benefit of the Act for regulating trials [for treason] (the 2nd half of §7 of the Act) was struck out. MS. Min. To this last amendment the Commons disagreed. C. J., XII. 32, 39. The Lords did not insist upon it, and the Royal Assent was given on 14 Jan. L. J., XVI. 194. 9 Will. III. c. 1., Fol. Ed.].

Annexed:—

(a) 4 Jan. Amended Clause marked A, as follows:—"And be it further enacted by the authority aforesaid, that *if* any person or persons who hath taken, [or] accepted, *or concealed* any such pardon or grant as aforesaid shall [not be discovered or delivered up] *discover and deliver up the same in manner aforesaid* on or before the said thirteenth day of February [1697, and shall afterwards make a full discovery of such pardon or grant and also ‡ discover any other person or persons who have accepted or taken any such grant or pardon not discovered on or before the said thirteenth day of February] *he or they* shall not be punishable [by this Act] for *procuring*, accepting, *receiving* [or] taking *or concealing* any such grant or pardon, *but shall hereby be wholly indemnified for the same.*" [Identical, as amended, with

* Omissions are shown by square brackets and additions by italics.

† The words ("for ever") are struck through.

‡ The words ("and also") were altered into ("or") before this portion was finally omitted.

- 1697-8. Sect. viii. of the Act. Added to the Bill in C. W. H. this day.
— MS. Min.]
No. 1191. (b) 10 Jan. 1697-8. Commons' Reasons for disagreeing to the
Lords' Amendment to the Bill. C. J., XII. 39. *In extenso*.
[Offered at the Conference and reported this day. L. J., XVI.
191.]

1192. Jan. 5. Bishop of Ely's (Downham) Act.—Amended Draft of an Act for enabling Symon, Lord Bishop of Ely, and his successors to lease the manor-house and demesne lands of Downham in the Isle of Ely, and for confirming a lease lately thereof made by the said Bishop, and for the clearing of the said Bishop and others from dilapidations there. The one amendment of the Lords is purely clerical. [Read 1^a this day. Royal Assent 7 March. L. J., XVI. 187, 228. 10 Will. III. c. 11 in Long Cal.]

Annexed:—

- (a) 10 Jan. Certificate of the Dean and Prebendaries of the Cathedral Church of Ely that they believe the lease of the Manor of Downham to Edward Thompson, Gent., is for the benefit of the See of Ely, and that if an Act might pass for confirming the lease, with a clause to indemnify against dilapidations in respect of the house only, which was almost totally demolished in the time of the wars, it would be no less beneficial to all future bishops than to the present one. *Signed* J. Lambe, Dec., C. Roderick, Tho. Lovett, Humf. Gower, Will. Gaynett, Jo. Beaumont, Fran. Fern. [Read this day in Committee. Com. Book.]

1193. Jan. 5. Kynnersley's Estate Act.—Draft of an Act to enable Thomas Kynnersley, Esquire, an Infant, to make a jointure and settlement of his Estate. No amendments in either House. [Read 1^a this day. Royal Assent 7 March. L. J., XVI. 187, 228. 10 Will. III. c. 17 in Long Cal.]

Annexed:—

- (a.) 29 Jan. Consent of Mary Kynnersley to the passing of the Bill. *Attested* by Frances Radclyffe and John Smithson. [Read this day in Committee. Com. Book.]
(b.) 29 Jan. Consent of Clement Kynnersley to the passing of the Bill. *Dated* 14 Dec. 1697. *Attested* Math. Johnson, E. Milles. [Read this day in Committee. Com. Book.]

1194. Jan. 7. Society of Ulster v. Bishop of Londonderry.—Petition and Appeal of the Society of the Governor and Assistants, London, of the New Plantation in Ulster in the Kingdom of Ireland against the Judgment given by the Lords Spiritual and Temporal of Ireland, in Parliament there assembled, upon the Petition and Appeal of William, Lord Bishop of Derry, against an Interlocutory Order and several subsequent Orders made in the High Court of Chancery in the said Kingdom in a Cause there depending between the said Lord Bishop and Petitioners and others. James I. being seized of the County of Londonderry, and for preventing any future rebellions there, thought it necessary to plant those Northern parts with Protestant inhabitants and colonies, and, with a view to provide places of strength for their preservation, proposed to the City of London to undertake a plantation there, and to build the City of Londonderry and town of Coleraine and other fortresses, which they undertook to do, and entered into Articles accordingly with some of the Lords of the Council on behalf of the King, in the seventh year of his reign, one of which Articles was that

4,000 acres lying on the Derry side, next adjacent to the City of Derry (excluding bog and barren mountain as waste) should be laid out to the City for gardens, orchards, and pasture lands for the inhabitants of the houses and for support of the magistracy within the walls. Pursuant to these Articles, James I. by Letters Patent of 9th March 1613-4 erected a new Corporation out of the twelve Companies of London, by the name of the Governor and Assistants, London, of the New Plantation in Ulster in the realm of Ireland, and granted the Society the lands on which the City of Derry is now built and the 4,000 acres adjacent (of which the lands mentioned in the Bishop's Appeal are a part) together with many other lands in the County, to manage the plantation for the use of the City of London. Soon afterwards the City of London built Londonderry, Coleraine, and Culmore, and provided them with ordnance and arms, at a cost of above 60,000*l.*, though not obliged to lay out more than 20,000*l.* The Society, being seized in fee of the lands in question, assigned a considerable part of the 4,000 acres to their tenants in Derry, and set out the remainder, consisting of about 1,500 acres and being the lands in the Bishop's Appeal to the Mayor and Corporation of Derry at a small rent for the support of the government and magistracy of the City, who accordingly entered and by themselves, their under-tenants and assigns, held undisturbed possession till the 13th year of Charles I., when a *scire facias* was brought against the Society for a pretended breach of covenants in the patent and rules of plantation. The Society depended on their agents and tenants in Ireland for instructions to answer the charge, but were prevented by shortness of time from making any defence, judgment being entered against them by default in Hilary term the same year, when the Letters Patent were cancelled. Charles I., in 1640 or 1641, considering the great charge incurred by the Society in connection with the plantation and the very inconsiderable profits that accrued to them, promised to restore to them the City and County in as full a manner as in the Letters Patent, but was prevented from so doing by the Rebellion. Charles II, however, by Letters Patent of 10th April in the 14th year of his reign, gave effect to this promise and restored all their former lands to the Society, and Petitioners have all along been looked upon as the proprietors and have paid the quit rent for the same, as is proved by the entries in the Auditor-General's Office there. No seizure was ever made upon the judgment obtained on the *scire facias*, and when the grant was restored by Charles II. the Corporation of Derry became tenants of the Society, and so continued till about 1692, during all which time no claim was ever heard of from any Bishop of Derry; but about that time it was pretended that, pending the process of law upon the *scire facias*, Dr. John Bramhall, then Bishop, taking advantage of the times and harsh opinion his then Majesty had conceived of the City of London, procured from Charles I., a grant by Letters Patent, dated 4th August in the 13th year of his reign, of seven quarters of land called Moylenem, *alias* Mollenan, Ballyowgry *alias* Ballydowgry, Termon Bacco, Ballynegowen, Termon Derry, Crevagh, and Killeagh in the parish of Templemore *alias* Derry, with a reservation of 90*l.* 10*s.* a year to the Corporation of Derry, who then held the lands under the Society. These Letters Patent bear date about six months before and are void. The Corporation, notwithstanding them, retained possession under their old title, and never gave Petitioners any account of any lease had from the Bishop, though of late it is pretended by the present Bishop that about 1638 a predecessor of his had made a lease to them, recently expired, under a rent reserved, which had been constantly answered to him; all which proceedings show a manifest combination between the Bishop and the

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- 1697-8. Corporation. Petitioners, on hearing of this pretended lease, ordered their agent to take possession by all legal means of the lands in question, whereupon the present Bishop in October 1694 brought a Bill in Chancery against them setting forth that John, Bishop of Derry, demised the lands in 1638 to the Corporation for 60 years from 14th July 1634 at a yearly rent, payable quarterly, of 50*l.*, that the Corporation had paid the same to the Bishop ever since, until 14th May 1694, when, the lease being near expiry, they gave orders to some of the Aldermen to treat for a new one, but the Corporation not agreeing, the Bishop, when the lease expired, prayed in his Bill for an Injunction, he having given a letter of attorney to demand possession of the Corporation, which the latter refused to obey, but ordered the under-tenants to attorn to Petitioner's agent Cairnes before the term expired. The Cause being heard in June 1697, the Lord Chancellor of Ireland declared that if the Bishop or any of his predecessors ever were in possession, either actually or in construction of law, by receipt of rents during the lease, the present Bishop should be quieted therein by Injunction, but not otherwise, and for ascertaining this matter directed a trial at law upon an issue to be settled. The Bishop moved the Court against this Order, and in July following petitioned his Lordship to give judgment. This petition being refused, the Bishop appealed to the Irish House of Lords, who on 24th September last reversed the said Order in Chancery, whereupon the Sheriffs delivered possession to the Bishop. Petitioners appeal from this reversal, being advised that there is no appeal from a decree of the Court of Chancery in Ireland to the House of Lords in that Kingdom, but only direct to the House of Lords in England, and also because the Order in Chancery was an interlocutory one. Pray that the judgment may be reversed and the Bishop ordered to answer. *Signed* Robert Clayton, Governor, Edw. Wills, Dep. Governor, James Boddington, Treasurer, Wm. Ashhurst, O. Buckingham, Wm. Coles, Isaac Brand, Wm. Gunn, John Marlowe, Timothy Butt, Nathaniel Houlton, Jacob Diston. *Countersigned* B. Shower, Edw. Northcy. *Endorsed* as offered this day. [The above Petition and Appeal being offered this day, was ordered to lie on the Table. MS. Min. No entry of this in L. J.* A Select Committee was appointed this day to consider the proper method of appealing from decrees made in the Court of Chancery in Ireland. MS. Min. L. J., XVI. 189.†

On the Petition being read, it was ordered that Counsel should be heard upon it. L. J., XVI. 269. Accordingly on 20 May *Mr. Attorney-General* was heard for the Petitioners. That the laws in England bind Ireland is not disputed. The Legislature have power. The question is touching the judicial power. Whether the judicial power of Ireland is to be controlled by the judicial power of England. If they have this power it is to render the other useless.

If an Appeal does not lie, then, a Writ of Error will not; and the consequence is it cuts off all the superiority as to the judicial power over Ireland, and therefore I hope your Lordships will make no scruple of retaining this Appeal.

There have been applications from Chancery in Ireland even during the Parliament sitting there, and will not your Lordships from the House of Peers there? If not it makes your Lordships and them co-ordinate, and makes your Lordships precarious, and so a man may choose whether he will or not.

* The first entry in the printed Journal relating to the Appeal is a petition of the Appellants on 20th April 1698 for a day for hearing. L. J., XVI. 269.

† See No. 1195.

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Sir Bartholomew Shore (on the same side). The question is only whether the Parliament in England is superior to Ireland. *Davis Reports* 25, they are but part of England. We desire your Lordships to retain the Appeal. *Mr. Serjt. Wright* (for the Bishop of Derry). The question depends upon the nature of this King[dom] of Ireland. Counsel withdrew. *Moved* that they speak only to this point—1. Whether the House of Lords in Ireland can receive Appeals from the Chancery there. 2. What right the House of Lords in Ireland have to receive Appeals from the Chancery in Ireland. Counsel called in again and told by the Lord Chancellor that they are very well satisfied of their own jurisdiction, and that they take it a strain of the Order to speak to the Lords' jurisdiction. The Lords would hear what you have to say as to the jurisdiction of the Lords in Ireland over the Chancery there. *Mr. Serjt. Wright* heard as to this matter. There was a book transmitted to Ireland called "*Modus tenendi Parliament.*"—That no person should have the same power there as the Parliament in England. *Coke*, fol. 349. They have, says [he], the same laws as we have, and the same jurisdiction. The laws in England were transmitted thither.

Precedents.—The Prior of Llanthony.—*Prynne's Animadversions*, the House of Peers did hold cognizance of this Court. 1661. An Order that the Lord Chancellor grant a Writ of Error returnable in that House. The Lord Clancarty's case.—The Lord Ranelagh's case—the decree was reversed. 1662. Keane O'Hara and his wife. The Writ of Error was brought to the House of Peers there. It is plain they did take it that they had jurisdiction in these cases. There is the Lord Loftus case.

The House of Peers in Ireland have a judicial power over Writs of Error and Appeals. *Sir Thomas Powys* (for the Bishop of Londonderry). Writs of Error from Ireland have been time out of mind to the King's Bench here. *Mr. Attorney-General* heard in reply. The question now is whether the House of Peers in Ireland can hold Appeals of the Chancery in Ireland. The precedent they cite is against them. They are silent with their precedents till 1661 and 1662. Their other precedents are in two or three years. It is not extraordinary that they should attempt such a jurisdiction. They never show it was allowed by the Parliament in England, neither have they any sanction to their proceeding from England. Because there are so many Courts there, is there for that reason another to be set up? What they say in Ireland is not to be an argument here—rather the contrary—that your Lordships should declare the contrary. As to what they say, that Writs of Error from Ireland are daily judged here, that is against them, plainly. *Sir Bartholomew Shore* is also heard and cites *Rushworth*. *Sir Thomas Powys* heard to that precedent, which is delivered, and *George Howe* sworn as to the truth of the copy. Then the House was *moved* to declare that Appeals from the Chancery in Ireland ought to be brought before this House—That the Appeal to the House of Peers in Ireland is void—To signify this into Ireland. The parties in Ireland should know if either be aggrieved by the Chancery in Ireland that they may appeal hither. *Moved* to have a Committee to draw the Order to be entered on the Journal. *Agreed* That the Appeal from the Chancery in Ireland to the Lords in Ireland is *coram non iudice*. That the Chancery in Ireland ought to proceed, notwithstanding the Order of the Lords, as if there had been no Appeal. That if either party found themselves aggrieved they might appeal to this House. *Agreed and Resolved* That the Appeal to the House of Lords in Ireland from the decree of the Court of Chancery

- 1697-8. there made in this Cause* was *coram non judice*, and that all the proceedings thereupon are null and void, and that the Court of Chancery in Ireland ought to proceed in the said Cause as if no such Appeal had been made to the Lords there. The House [agreed] and resolved as above.—Lords Committees appointed to draw up an Order pursuant to that Resolution of this House. MS. Min.
- No. 1194.

On 24 May Lord Herbert of Cherbury reported from the Committee. The Order was made, and the Lord Chancellor ordered to send a copy of it to the Lords Justices in Ireland. L. J., XVI. 296-7. On 11 Feb. 1698 the subject came up again on a Petition and Appeal of Edward Ward, and was referred to a Select Committee. The Committee reported that in their opinion the Lord Chancellor ought to write to the Lords Justices and inquire what had been done upon the Order, and the House ordered accordingly. L. J., XVI. 381, 383. The answer (Annex (c) below) (*see* L. J., XVI. 467) not being satisfactory, the House on 20 March ordered the Lord Chancellor to write again. *Ib.* 408.

A petition of the Appellants (Annex (d) below) was read on 24 March and referred to a Select Committee. *Ib.* 415. The Committee reported that in their opinion the Bishop, the Serjeant at Arms and his deputy, and the Commander-in-Chief should be sent over in custody for contempt. The House ordered that an Address should be prepared by the Committee to that effect. *Ib.* 418.

The Address was brought up on 29 March and agreed to, and the Lord Chancellor ordered to present it. *Ib.* 426. The King's answer was reported by the Lord Chancellor on 18 April, on which day he also informed the House of the proceedings he had received from the Lords Justices. *Ib.* 441. Another petition from the Society (Annex (e) below) was read on 26 April, and the Lord Chancellor of Ireland ordered to restore the Petitioners to their possessions. *Ib.* 451. On 1 May it was agreed to acquaint His Majesty that as the Session was about to end the Lords only desired the Bishop of Derry to be brought to the House at the beginning of next Session. *Ib.* 459.

At the beginning of the next Session a letter from the Lord Chancellor of Ireland was read. *Ib.* 479. Lloyd, who had been arrested, was discharged on 6 Dec., and Col. Livesey attached. *Ib.* 481. He also was discharged on 7 Dec. *Ib.* 482. Some letters laid before the House on 9 Jan. by the King's command were referred to a Committee on the following day, and, the Committee having reported in favour of dispensing with the Bishop's attendance, an Order to that effect was made, and the letters entered in the Journal. *Ib.* 490-492.

Annexed:—

- (a) 20 April 1698. Petition of Appellants for a day for hearing. Signed Pr. Daniel, Samuel Powell, Dep. Governor, Edward Wills, Robt. Knight, Tho. Lane, Wm. Hedges, O. Buckingham, Joseph King, John Glover, Thomas Humfreys, Isaac Brand, John Marlowe. L. J., XVI. 269. [Read this day. Ordered "That this House will hear Counsel, as to that part of their Petition which relates to Jurisdiction only, on Monday next."]
- (b) 22 June 1698. Letter from the Lords Justices in Ireland to the Lord Chancellor, acknowledging the receipt of his Lordship's letter of the 1st inst., written by direction of the House of Lords, together with a copy of their Order, Judgment and Declaration

* L. J. reads—"A Cause wherein the Bishop of Derry was Appellant and the Society of the Governor and Assistants, London, of the New Plantation in Ulster in Ireland were Respondents."

of the 24th of May last. *Signed* Winchester,* Gallway† ; *dated* 1697-8.
Dublin Castle, 16 June 1698. [Communicated to the House this
day by the L. Chancellor. L. J., XVI. 325.] —
No. 1194.

(c) 20 March 1698-9. Letter of D. Bolton and E. Gallway to the L. Chancellor, stating, in answer to his Lordship's letter of 14 Feb. desiring an account of what had been done in pursuance of their Lordships' Declaration and Judgment of 24 May last, that, as soon as the L. Chancellor [of Ireland] came out of England, they showed his Lordship the Order, and are now assured by him that since their receiving it there have been no proceedings in the Chancery in Ireland in the Cause, neither of the parties having made any application in that Court. *Dated* Dublin Castle, 7 March 1698-9. *Endorsed* as read this day. L. J., XVI. 408. A Memorandum states that the letter is entered "at the end of the Book" (see p. 467, where it is given *in extenso*).

(d) 24 March 1698-9. Petition of Appellants. Petitioners, with much difficulty, as appears by the annexed Affidavit, caused the Bishop of Derry to be served with their Lordships' Order of 24 May last, declaring the Bishop's Appeal to the Irish House of Lords to be *coram non judice* and all proceedings thereon void. The Bishop moved the Irish House of Lords on 2 Nov. last and obtained two Orders to apprehend the two last and present Sheriffs of Derry for a supposed contempt in not obeying their Orders for putting him into possession, whereupon the Serjeant-at-Arms, with the Governor of Derry and some soldiers, tumultuously arrested the present Sheriffs and carried them to Dublin, where they kept them a long time, and forced the late Sheriffs to abscond. The Bishop also on 19 Nov. obtained an Order for the Serjeant-at-Arms to arrest Petitioners' Agent for a breach of privilege in serving him with their Lordships' Order of 24 May last, and another Order for the Coroner to put him into possession, and also for the arrest of five of Petitioners' tenants for opposing the giving him possession. He has thus possessed himself of all or most of Petitioners' lands near the City, and is contracting to let them, so that the City is left without either meadows or pasture about it, and only a few acres of barren ground. Pray their Lordships for redress. *Signed* Robt. Clayton, Governor, B. Gracedieu, Dep., and by 13 others. L. J., XVI. 415, 426. *In extenso*. [Read this day and referred to a Select Committee.]

(d¹) 24 March 1698-9. Affidavit of John Campbell, of Dublin, that he personally served the Bishop of Derry on 17 Nov. last with their Lordships' Order of 24 May last, and that the House of Lords in Ireland had ordered Deponent to be arrested, and that he had been threatened so much that he was forced to abscond, and could not without great difficulty get to England, the ports being watched. *Sworn* 20 Feb. 1698-9 before Rob. Legard. [Referred to the Committee this day and produced the following day. MS. Min. Com. Book.]

(e) 25 March 1699. Orders and Proceedings of the Irish House of Lords and Affidavits relating to the case of the Society of

* Became Duke of Bolton on the death of his father in February 1698-9.

† The celebrated Henri Massue-de-Ruvigny, Marquis de Ruvigny in France, a Huguenot who settled in England after the Revocation of the Edict of Nantes. Distinguished himself at the battle of Aughrim, 16 July 1691: was created V. and subsequently E. Galway: was one of the Lords Justices of Ireland 1697-1701.

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London etc. v. Bishop of Derry. [Eight papers which are fully set out. L. J., (Irish) I. 696, 698-9, 700, 708, 710, 712, 713, 714, 715, 723-4, 727.—All the above papers are signed as examined by Jo. Smyth, Cler. Parliamentor. The first of them is *endorsed*: "Orders of the House of Peers, Ireland, and Affidavits" concerning Society of London and Bishop of Derry, received "and read in Ho. Peers 25 March 1699." Produced in Committee this day. Com. Book.]

(f) 18 April 1699. Letter from the Lords Justices in Ireland, D. Bolton and E. Gallway, to the L. Chancellor. Contrary winds having for some time detained at Holyhead the letters from London, this day five packets arrived, by which they have received his Lordship's letter, written by order of the House. They are sorry to find their last letter was not so satisfactory as they hoped it might have been, and will transmit by the next post a full and particular account, as desired. *Dated* Dublin Castle, 4 April 1699. *Endorsed* as read this day. L. J., XVI. 441.

(f¹) 18 April 1699. Cover of preceding, addressed to the Right Hon. The Lord Somers, L. Chancellor of England.

(g) 18 April 1699. Letter from the Lords Justices in Ireland, D. Bolton and E. Gallway, to the Lord Chancellor. They hear with great concern that their letter to his Lordship of 7 March last was not satisfactory to the House, as they understand from his Lordship's last letter received on the 4th inst., and that their Lordships expect a full and particular account of all that has passed in Ireland relating to the case since the Order, Declaration and Judgment of their Lordships on 24 May last. The Lords Justices have not known or heard of anything save what has been done in the Irish House of Lords during their late Session, and in execution of their orders. They have, therefore, required from the Speaker of that House an account of the proceedings in the matter since 24 May last, which is stated in the Report enclosed. They are assured that, in pursuance of the Orders therein mentioned, the Society's tenants have been turned out by the Coroners of Londonderry from the lands in dispute, and that possession has been delivered to the Bishop or his Agent; and that the two present Sheriffs of Londonderry have been taken into custody by the officer of the Irish House of Lords appointed for that purpose, which was done about midnight, and in a manner somewhat extraordinary. They add that Lieut.-Col. Livesey, who commanded the soldiers then quartered in Londonderry, having officiously intermeddled in the matter has been suspended by them. *Dated* Dublin Castle, 8 April 1699. *Endorsed* as read this day. L. J., XVI. 441, 467. *In extenso*.

(h) 18 April 1699. Letter from the Right Hon. John Methuen,* L. Chancellor of Ireland [to the Lords Justices of Ireland]. In pursuance of their Excellencies' letter of the 4th inst., requiring him to give a full and particular account of all that had passed in the House of Lords in Ireland, in relation to the case, since 24 May 1698, he states that the said House of Lords on 24 Sept. 1697 ordered the Sheriffs of Londonderry to deliver possession

* Methuen was Lord Chancellor of Ireland from 1697 to 1703, when he was appointed Ambassador Extraordinary to Portugal. He concluded the famous treaty with Portugal, which bore his name, on 27 December 1706.

of the lands in question to the Bishop or his order, and that on 30 Nov. 1697, on the Bishop's complaint against the several under-tenants of the lands for a breach of privilege, and on the oath of Richard Anderson at the Bar that the Sheriffs put the Bishop into possession but that the under-tenants afterwards entered and possessed the lands, the Lords ordered the Sheriffs to put the Bishop or his Attorney again into possession, and quiet him therein. On 2 Nov. 1698, on the examination of Richard Anderson and Henry Green, the Lords ordered the Serjeant-at-Arms to apprehend Joseph Morrison and John Dixon, late Sheriffs of Londonderry, and Albert Hall and Robert Gambell, then Sheriffs, for contempt in disobeying the Order of 30 Nov. 1697. On 12 Nov. 1698 the Lords ordered six under-tenants to be apprehended, for a breach of privilege in disturbing the Bishop's possession. On 18 Nov. 1698 the Lords ordered the Coroners to put the Bishop into actual and peaceable possession. On 19 Nov. 1698 the Lords ordered the Serjeant-at-Arms to apprehend John Campbell, for a breach of privilege in serving the Bishop with an Order of the House of Lords in England. On 1 Dec. 1698 Albert Hall and Robert Gambell, then in custody, petitioned the House, and on 2 Jan. 1698-9 were discharged with a reprimand. On 3 Dec. 1698, on complaint by the Bishop of a breach of privilege in opposing the Coroners in giving him possession, and on the oath of Giles Gifford, the Lords ordered the Serjeant-at-Arms to apprehend Samuel Curry, James Curry, Samuel Crawford, Samuel Bohannon and William Alexander. *Dated* 8 April 1699. *Endorsed* as read this day. L. J., XVI. 441, 467-8. *In extenso*.

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- (i) 26 April 1699. Petition of the Society of the Governor and Assistants, London, of the New Plantation in Ulster in the Kingdom of Ireland. Petitioners on 24 March last petitioned their Lordships complaining of the proceedings of the Bishop of Derry in obtaining possession of their lands contrary to the Order of 24 May last, upon which Petition their Lordships ordered an Address to be presented to his Majesty. Notwithstanding this, the Bishop still withholds possession. Pray to be put into quiet possession of their lands. *Signed* by Robert Clayton, Governor, and 16 others. L. J., XVI. 451. Almost *in extenso*.
- (j) 29 Nov. 1699. Letter from the Right Hon. John Methuen, Lord Chancellor of Ireland, to the Lord Chancellor. *Endorsed* as read this day. L. J., XVI. 479. *In extenso*.
- (j¹) 29 Nov. 1699. Letter from John Deining and Samuel Harvey to the Right Hon. John Methuen, Lord Chancellor of Ireland. In obedience to his Lordship's order of 25 July last, delivered to them on 31 July last by David Cairnes, they gave possession on 1 August following of all the lands mentioned in the order to the said David Cairnes for the use of the Society of London, &c. (except part of the quarterland of Molenan, possessed by one Humphrey Torrey, of which the Society were not possessed on 22 June, 1697), of all which lands (except as aforesaid) the Society's tenants are now in peaceable possession. They acquaint his Lordship hereof, as required by his letter of 31 Oct. last. *Signed* Joⁿ Deining, Sam. Harvey, Ar., Vic. *Dated* Londonderry, 7 Nov. 1699. [Referred to in preceding as enclosed therewith.]

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(j²) 29 Nov. 1699. Cover of Letter (Annex (j) above), addressed to the Lord Chancellor of England.

(k) 6 Dec. 1699. Petition of Andrew Lloyd. Petitioner was taken into custody by misinformation on 20 Nov. last by warrant from E. Jersey, his Majesty's principal Secretary of State, on an Address for apprehending ——— Lloyd, Serjeant-at-Arms of the House of Lords in Ireland, which office Petitioner has never held. Prays to be discharged. L. J., XVI. 481. *In extenso*.

(l) 6 Dec. 1699. Petition of Lieut.-Col. John Livesey. Petitioner, hearing there was a warrant against him for a breach of privilege, surrendered himself to the messenger, and finds it is for assisting one Scott, deputy Serjeant-at-Arms to the House of Lords in Ireland. Scott came in the night time to the garrison where Petitioner commanded, and told him he had an Order of the Irish House of Lords requiring assistance, both civil and military, to apprehend the Sheriffs. This was the occasion of Petitioner's intermeddling, he being unaware of any Order of the House of Lords in England to the contrary, or of any difference between the Society and the Bishop. Prays to be discharged. [Read this day. L. J., XVI. 481. Petitioner was brought to the Bar on the following day, reprimanded, and discharged. *Ib.* 482.]

1195. Jan. 7. Appeals from Ireland.—Papers relating to an enquiry into the methods of proceeding on Appeals from the Court of Chancery in Ireland. [A Select Committee was appointed this day to consider this question. L. J., XVI. 189.]

On 8 Jan., E. Stamford in the Chair, inquiry being made at the door whether any persons attend from the Bishop of Derry or the Irish Society, none appear from the Society. *Mr. Anstey* being come in and asked whether he can say anything in this matter, and for whom he appears, says he had a letter from [the Bishop of Derry to enquire from time to time what should be done in this matter, and to give his Lordship notice. He says, if the Committee lay any commands on him as to the bringing precedents from Ireland, he will do it as soon as he can. He proposes five weeks, wind and weather excepted. He withdraws. *Ordered* that whatever precedents are brought from Ireland to be laid before their Lordships, relating to this matter, shall be attested as true copies from the Council Board there. The House to be moved that the Lords Justices there be written to, to give account of the methods of appeal from Chancery there, with all convenient speed. *Mr. Sloane* being at the door and desiring to be heard, and being called in and asked how he attends, says he had a letter from the Bishop of Derry to desire him to assist him, and he appears as his friend. He says he will send by this night's post to him. He withdraws. *Sir Robert Clayton*, being at the door, is called in and acquainted with the Order made concerning precedents. *Mr. Kerne*, Agent for the Society, being called in and asked as to what time they can have precedents and copies from Ireland, says they may have them in three weeks or a month. They withdraw. *Ordered* to consider further of the matter on 8 Feb., both parties then to offer such precedents as they have. Com. Book.—On report, *eod. die*, the L. Chancellor, by order of the House, prepared a letter to be sent by him to the Lords Justices in Ireland. L. J., XVI. 190.

In Committee, on 14 Jan., E. Stamford in the Chair, several precedents of Appeals from the Chancery in Ireland to the House of Lords in England were produced by the Clerk and read, and ordered to be reported. Com. Book. These precedents were reported next day. L. J., XVI. 195.

In Committee, on 8 Feb., E. Stamford in the Chair, the Chairman acquainted the Committee that the L. Chancellor had given him a letter (Annex (a) below) which he had received from the Lords Justices in Ireland, touching the method of appealing, to be communicated to the Committee. The same was read. Com. Book.

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In Committee, on 11 Feb., E. Stamford in the Chair, the letter from the Lords Justices of Ireland (read at the last meeting) was again read. Com. Book.

In Committee, on 17 Feb., E. Stamford in the Chair, the Clerk acquainting the Committee that the L. Chancellor had this morning sent a packet to be presented to the Committee, which he had received from Ireland in answer to his letter to the Lords Justices, the packet was opened, and the precedents therein were begun to be read. *Sir Robert Clayton* attending, and desiring copies of them, he is told the Committee has not yet perused them, but in convenient time he may have copies. *Mr. Sloane* desiring the same thing, it was accordingly granted. They withdraw. The letter from the Lords Justices to the Lord Chancellor is read. The Abstract (Annex (a³) below), is read and to be reported. 7 and 8 fos. "Modus Tenendi Parliamentum" is read. Precedent No. 4, Baron Galtrim and E. Shrewsbury, is begun to be read. Precedents Nos. 11 and 13 read. *Memorandum*: None of these precedents come up to the matter in question. After considering all the 39 precedents, *Ordered* to report the Abstract and the precedents numbered 15, 16, 17, 19, 22, 33, 37, 38, as fit to be considered by the House. Com. Book.

The House, on 19 Feb., ordered the Committee to report on the 21st. L. J., XVI. 214. The Report was accordingly made. *Ib.* 216 *in extenso*.

Annexed:—

(a) 8 Feb.—Letter to the Lord Chancellor as follows:—

Dublin Castle,
The 5th Feb. 1697-8.

Our very good Lord,

We gave your Lordship an account in our letter of the 25th past of the receipt of your letter of the 8th of that month, writ by command of the most Honourable House of Peers, and that we had immediately thereupon called a Council, and recommended to a Committee of the Lords and to the Judges to collect from the Records here the methods which have been practised in appealing from Decrees made in the Court of Chancery in this Kingdom; and we now send your Lordship the enclosed Representation thereof, made to us this day, together with a Schedule of the several precedents cited therein, among which your Lordship will perceive there are several relating to the jurisdiction of the House of Peers in this Kingdom, which the Lords of the Council have desired might be likewise laid before the Most Honourable House of Peers in England; and, that our return might be made with all possible expedition, we have transmitted the same by express to your Lordship, and remain,

Our very good Lord,
Your Lordship's most humble Servants,
WINCHESTER,
GALLWAY.

The Lord Chancellor of England.

1697--8. [Communicated to Committee by the Lord Chancellor this day. See notes above.]

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(a¹) Cover of preceding.

(a²) 8 Feb.—Representation, as follows :—

To their Excellencies the Lords Justices and Council of Ireland. In obedience to your Excellencies' and Lordships' Order of Reference of the 17th of January last, requiring us to inspect the Journals of the Most Honourable the House of Lords and other Records, in order to find what precedents there are relating to the methods prescribed in appealing from Decrees made in the Courts of Equity in this Kingdom to the House of Peers here, we have several times met, and having perused the Journals of the House of Peers and divers Records in Birmingham's Tower and the Rolls Office, have found many precedents and Records concerning that matter, whereof we humbly lay before your Excellencies and Lordships copies attested by the Clerks of the House of Peers and Rolls Office and the Keeper of Birmingham's Tower respectively, together with an abstract of the substance of each of them, and a reference therein for each precedent, both to the Records themselves and the said particular copies. And we further inform your Excellencies and Lordships that we have examined the said copies with the original Records themselves and find them all respectively to agree with the same. All which we humbly submit to your Excellencies and Lordships.

Dated this 5th of February 1697.

MEATH, C.S.

LONGFORD, C.S.

BLEIMSON, C.S.

R. L. Pyne.

Jno. Key,

Rob. Doyne.

[Communicated to the Committee by the L. Chancellor this day. See notes above.]

(a³). 8 Feb.—Abstract of Precedents (39) referred to in (a²); viz. :—

Hen. II.

Title, Judie. Casus Dubii,
fo. 7, 8. No. 1.

Modus tenendi Parliament. et Consilia in Hiberniâ, in which Causes in Chancery and in the Courts that are difficult are appointed to be tried in Parliament. Title, Judicium Casus Dubii, fo. 7, 8.

Dominus Rex v. Reginald Denne.—In the Rolls in Birmingham's Tower in Ireland. Anno 22 Edw. III. No. 2.

A Writ of Error test. apud Westmonasterium, directed to the Justice or Lieutenant of Ireland, there to remove before them in the Council of that land all outlawries of felony, trespasses, &c.

By the Record it appears the Defendant pleads a pardon "Dat. apud Kilkenny 27 Oct.," before the date of the Writ of Error, of all trespasses, &c., which is said to be sealed "Sigillo Domini Regis quo utitur in Hiberniâ." He assigns errors, the King's Counsel replies, and they join issue on the errors, but it does not appear what Judgment was given, the rest of the Record being lost.

Prior of Lanthon. v. Prior of Mullingar.—In the Rolls Office in Ireland. Anno 5 Hen. VI. No. 3.

This Case removed out of the King's Bench to the Parliament of Ireland, and Judgment reversed, it being a Writ of Annuity.

Baron of Galtrim v. Earl of Shrewsbury.—In Rot. Parliament. Hiberniæ 27 Hen. VI. cap. 16. No. 4.

Chevernock v. Pigg.—In Rot. Parl. 27 Hen. VI. cap. 25. No. 5.

Chambers v. The Barons of the Exchequer of Meath.—In Rot. Parl. 26 Hen. VI. cap. 34. No. 6.

Wells v. Phillips.—In Rot. Parl. 7 Edw. IV. cap. 47. No. 7.

Dean of Kildare v. Parker.—Rot. Parl. 18 Edw. IV. cap. 1. No. 8.

The Trial of Michael, Archbishop of Dublin.—Rot. Parl. 5 Edw. IV. cap. 37. No. 9.

Journal of the House of Lords.—Orders of 2 Aug. 1634 and 15 Dec. 1634. No. 10.
Motion 25 July 1634. No. 11.

Resolution 20 Nov. 1634. fo. 5. No. 12.

Bishop of Ardagh's Case.—Orders of 1, 2 and 3 March 1640, relating to him and their Representation in general. 4 March 1640. No. 13.

On Petition, an Order of Parliament to stop execution of two *Scire fac.* issued on two Recognizances in Cane[ellariâ] for £100 to the Earl of Shrewsbury, Robert Dike and others.

Order of Parliament on Petition to quiet the Petitioner in his possession of the Treasurership of Limerick, pursuant to a Decree in Cane[ellariâ], he having been put out of it by virtue of the King's Privy Seal, with order to write to the King.

Order of Parliament on Petition to relieve Chambers against the neglect of the Clerk, and to reverse a Judgment given by default for £12.

Order of Parliament on Petition to discharge Wells of an obligation of £15, for which he was sued at law, with a perpetual Injunction on an equitable account.

Order of Parliament on Petition to reverse an outlawry in the Common Pleas, and a perpetual Injunction upon an equitable account.

Ordered, that the Archbishop of Dublin shall be discharged from appearing in the King's Bench on an Indictment of trespass and felony against him, and all proceedings there against him to cease, he purging himself before the Parliament, which he accordingly does, and is acquitted by vote of the Lords Spiritual and Temporal.

To show that the Attorney General moved at the Bar of the House of Lords that absent members might be fined.

The Lord Chancellor moved the Judges, who conceived an adjournment of the House every day was necessary, that House being a Court of Law, the highest in the Kingdom that sends Writs of Error to the King's Bench.

A dispute arising about the fees belonging to the officers of the House of Lords, in what money it should be paid, the Lords declare in Irish money. Only in case of Bills or Suits between party and party the Clerk to receive the same sums in English money which are received in England.

In the year 1640 the Lords in Ireland appointed some of their number to attend in England and represent their grievances. In that time, one Roddy having complained against the Bishop of Ardagh to the House of Commons in England, a motion was made in the House of Lords in Ireland that it might be considered what course was fit to be taken, in case a member of that House be sent for or his title questioned in the Parliament of England by a Committee. Hereupon an Order was made that the Committee attending his Majesty for redress of grievances should represent it to his Majesty and become humble suitors to him for preventing the like hereafter, but before this Representation the Bishop preferred a Petition, upon which the Lords thought not fit to give him leave to go over, but ordered their Speaker to write a letter to the Speaker of the House of Commons there.

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No. 1195.

*Impeachment against the
Lord Chancellor, &c.—Vide
Copy 28 Feb. 1640, 4 March
1640, 5 March 1640. No. 14.*

The Commons impeach the Lord Chancellor, Chief Justice of the Common Pleas, the Bishop of Derry, &c. Many debates about it, and all the Judges' opinions, upon which the impeachment was received and the Bishop of Derry and L. Chief Justice Lowther committed, &c.

*Vide Order 9 Feb. 1662.
No. 15.**

An Order that the Judges shall prepare a draft to be presented to the House that no Cause which may be determined in the Courts of Justice or Equity shall be admitted or heard in that House, except in cases of Appeal, Writ of Error, or matter of Privilege.

Journals of the
House of Lords.

*Gerard Wellesley's Case.
Appeal. No. 21.*

He appealed to the House of Lords, and set forth that he had petitioned the King to be put into possession of his estate; that on a reference to Arthur Annesley, Esq., Sir Maurice Eustace and others of the Judges, who reported that his right to his estate did appear, and that they saw no cause why he should be dispossessed, that the King ordered him to be put in possession, and he was accordingly put in possession, but turned out by the Commissioners of the Court of Claims upon a bare Affidavit made before them. It appears the parties concerned were summoned, appeared and took out copies, but did not answer. The House thereupon ordered him to be put into possession by the Sheriffs of the Counties where the lands lie.

20 May 1661,
fo. 6.
9 July 1661,
fo. 30.

*Darcy of Platten's Case
about a Writ of Error.
No. 20.*

He petitions for a Writ of Error and copies of Indictments of treason, and that the Lord Chancellor might seal it. This was referred to a Committee, and power given to send for records and hear Counsel.

20 May 1661,
fo. 6.
22 May 1661,
fo. 6.

*Concerning Courts of Justice.
No. 34.*

The House of Commons, observing that it was inconvenient to the settlement of Ireland and inconsistent with the King's Declaration that the Commissioners of the Court of Claims should be interrupted in the ad-

Journals of the
House of Lords. 1697 - 8.Concerning Courts of Justice.
No. 34—*cont.*

judication of persons and titles, and that, if the Courts of Justice were open, the Judges must judge according to law, which would obstruct the settlement, they desire the Lords to join with them in an Address to the Lords Justices, that the term might be adjourned, and that the Lords would admit of no Appeal or Plea for declining the Court of Claims. The Lords agree with them in addressing as to the adjournment of the term.

24 May 1661,
fo. 8.

No. 1195.

No. 35.

And as to hearing Petitioners against the Court of Claims the Lords declare they will be cautious, but being the highest Court of Judicature cannot deny a Complainant right.

30 May 1661,
fo. 13.

A General Order. No. 36.

An Order that the possession of such lands as are designed by the King's Declaration for the "'49 men" within the mile line be continued to them, and that they be quieted by the Sheriffs, as they now are, until their rights be heard.

7 June 1662,
fo. 85.*Earl of Clancarty's Case.*
Writ of Error. No. 19.*

Upon application by the Earl for a Writ of Error for reversing his outlawry, the House order that they will make use of the speediest and nearest expedient for taking it off, and order that the Lord Chancellor be desired to grant him a Writ of Error returnable into this House, and the Earl of Barrymore and Baron of Kingston do wait on him to this purpose.

5 July 1661,
fo. 28.*Lord Ranelagh v. Lady Bingham and John Paulett.* Appeal. No. 22.*

The Lord appeals from a Decree given against him in the Chancery in 1658 for 300*l.* It appears that the Appeal was received, that Paulett appeared and took out a copy of the Petition, but not having

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Journals of the
House of Lords.

*Lord Ranelagh v. Lady
Bingham and John Pau-
lett.* Appeal. No. 22*—
cont.

answered, a further day
was given, and if he did
not put in a full answer,
the Lord was to be heard
ex parte. It appears he
was served with this
Order, and he not appear-
ing the House proceeded,
heard the Cause, and re-
versed the Decree, but left
Paulett at liberty to take
his remedy, if any he had,
and the Earl to waive his
privilege as to this par-
ticular.

27 July 1661,
fos. 43, 92.

Lee v. Lesley. No. 16.*
Dismissed because not by
Appeal.

This Cause being concerning
matter of title, and in re-
gard it did not come from
any other Court by way of
Appeal, therefore was
dismissed.

25 June 1662,
fo. 94.

*Keane and O'Hara et ux. v.
Parkes et al.* Writ of
Error. Nos. 17* and 33.*

Parkes obtained judgment
in the King's Bench in
debt against O'Hara.
O'Hara brought his Writ
of Error to remove it into
Parliament, and Lord
Santry, at that time Chief
Justice, brought in the
Writ and the original Re-
cord, and delivered them
into the House according
to custom. This proceeded
so far that a day was ap-
pointed for arguing the
errors. A *Scire facias*
ordered and returned and
a day appointed for
arguing the errors.

20 Dec. 1662,
fo. 166.
9 April 1663,
fo. 187.

*Lord Ely v. Barrett and
others.* Appeal.

Note.—The L. Strafford
and Council assumed the
whole power of Chancery
in these times, so that few
Causes were determined in
that Court.

No. 23.

He appeals against a Judg-
ment given before the
Lord Strafford and Coun-
cil against his father,
and against several other
proceedings in the Courts
of Law and upon the said
Judgment. His Appeal was
received, summons ordered
for the persons complained
of, and the Speaker ap-
pointed to write to the Lord
Chief Justice of the Com-
mon Pleas, desiring him to
transmit to the House all
such fines and assurances
which passed of the estate
of the Lord Loftus or his
father from 1637 to 1646,
for the view and perusal of
the House.

19 Mar. 1662:
fo. 176.

Journals of the
House of Lords.

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*Lord Ely v. Barrett and
others. Appeal. No. 23*
—cont.

The House being informed
that Mr. Pooley had the
custody of the fines and
records relating thereunto,
order him to bring in the
same and all deeds leading
the uses of them, and
the Writs of Covenant,
&c., and for so doing he
shall have the indemnity
of the House.

9 April 1663,
fo. 180.

The same day, a message
from the House of Com-
mons that Mr. Barrett is a
member and insists on his
privilege, &c.

9 April 1663,
fo. 182.

*Earl Roscommon, Lord Dun-
gannon, Lord Aungier, and
others. Certiorari. Against
Indictments. No. 18.**

Indicted for nuisances in not
paving the streets, and
outlawed. They complain
of Mr. Savage, the Clerk
of the Crown, and after
some debates they declare
them void and croneous,
and Savage to be brought
on his knees to make his
submission, which he did,
and the manner of it, and
a *Certiorari* is awarded to
remove them from the
King's Bench, *prout Cer-
tiorari*.

7 Dec. 1665,
fo. 193.

14 Dec. 1665,
fo. 197.

16 Dec. 1665,
fo. 198.

Afterwards, the *Certiorari*
not being returned, in re-
gard the term was just at
hand, they order the
Judges of the King's
Bench to quash and vacate
the presentments, &c., the
1st or 2nd of the term,
and issue an Order to that
purpose, and accordingly it
was done, and Sir William
Aston, 2nd Justice, gives
the Lords an account that,
in obedience to the Order of
the House, they were
quashed.

22 Jan. 1665,
fos. 208 and
209.

29 Jan. 1665,
fo. 209.

*Earl of Meath v. Lord Ward
and others. Appeal. No.
37.†*

An Appeal brought against
a Dismissal given in the
Chancery of the Palatinate
Court of Tipperary, and,
on hearing, the Dismissal
reversed, and a Decree for
the possession of the lands
in difference, and that the
Chancellor of that Court
should cause him to be put
in possession.

29 Oct. 1695.

* See also No. 31, p. 53 below.

† Reported by Committee. L. J., XVI. 216.

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No. 1195.

*Samuel Maynard, Esq., v.
Stephen and Thos. Moore.*
Appcal. No. 38.*

This was an Appeal against
a verdict given in the
same Palatinate on an
issue by leading order out
of the Chancery Court
there, and, on full hearing,
the Appellant was dis-
missed.

29 Oct. 1695.

House of Commons.

Lady Talbot v. Powell.
No. 32.

The House of Commons and
Lords vote the proceeding
at Council-board, whereby
the Lady was outed of
her possession of certain
Rectories, was unjust and
illegal, and ordered a
Committee to attend the
Lords and demand judg-
ment according to the
vote.

6 July 1641.

There is no footstep of this in the House
of Peers, the Journal of that time
being lost.

This Abstract was examined by—

R. P.
H. E.

No. 39.

A Petition to the King from
both Lords and Commons
in Parliament assembled
taking notice of his
Majesty's letter of the
28th of April concerning
the impeachment of the
Lord Chancellor and
Chief Justice of the Com-
mon Pleas. They therein
declare that the Lords and
Commons have entered a
Declaration and Protes-
tation of their rights and
privileges; that the judi-
cature in Parliament and
in all other Courts in this
Kingdom hath been for
460 years guided by the
common law of England
and course of Parliament
there. They set forth the
loss and embezzlement of
records, and that many
were carried to England.
They pray his Majesty to
name a new Speaker. An
Order upon this, after
three times being read,
that it shall be entered
amongst the Acts, Orders
and Ordinances of the
House, and presented to
his Majesty by the Com-
mittee of the House then
in England.

24 May 1641.

* Reported by Committee. L. J., XVI. 216.

House of Commons.

1697-8.

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No. 1195.

John Lylles, Plaintiff, v. Peirce Creagh et al., Defendants. No. 24.

On a Petition of the Plaintiff, presented to the House of Peers 15 June 1661 (*sic*), setting forth that the Petitioner had a special verdict at the Assizes at Limerick in 1662, praying relief against many delays in the suit, the ease was referred by their Lordships to the Committee of Grievances, who made their Report that the Plaintiff should be allowed his costs suffered by several delays of the Defendants, which Report was afterwards confirmed by the House of Lords per Order dated 14 Aug. 1662.

Order of 9 Feb. 1662 for the Defendants to show cause why the Plaintiff should not have the Deeree of the Honble. House for the lands in question on his Petition and Complaint.

This Cause, per Order 17 March 1662, dismissed the House, not coming in by way of Appeal, as appears per Order of 26 March 1663, and recommended therefore to be heard in Chancery.

No. 25.

Order of 15 June 1661 that the Church be immediately restored to all such possessions and lands as they actually possessed in 1640 and 1641, whereof she was not since outed by due course of law, and the respective Sheriffs to put the Church in possession.

Lord Dungan v. Edward Eustace &c. No. 26.

Judgment obtained for Defendants against Plaintiff in the Common Pleas for lands. Complaint made to the House that the same is a breach of privilege against the Plaintiff. Ordered 18 Dec. 1665 that the Judges of the Common Pleas stay execution.

No. 27.

Order of 2 June 1662 that the Sheriff put the Bishop of Derry in possession of Termonderry.

Phillipps v. Tyrrell. No. 28.

Ordered, 4 Sept. 1662, that Defendant, in right of the Church, be quieted in his possession of some lands in Finglass, and that Plaintiff, as to his title, be left to law.

Bysse et al. v. Watson &c. No. 29.

Order of the House of Commons of 17 July 1641 on the Plaintiffs' Petition complaining of moneys due from Defendants to Plaintiffs by several bonds, whereby it is ordered that the Committee, who had the matter under consideration, do repair to the House of Lords and pray their Lordships to give judgment on the said bonds, according to priority of suit in Chancery.

Note.—The Journal of the House of Peers for the year 1641 is lost, therefore these two cases appear only on the Journal of the House of Commons.

White v. Watson. No. 30.

17 July 1641. Ordered by the House of Commons *ut supra*, the ease being the same with that of *Bysse v. Watson*, with a saving to the rights of the Commons.

Endorsed: Abstract of several Journals of Parliament. [Appended to preceding. Communicated to the Committee by the Lord Chancellor this day. See Notes above.]

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No. 1195.

(b) 17 Feb. Precedents (39) referred to in preceding Abstract, (a³) and communicated to the Committee by the Lord Chancellor this day. (See notes above.) They are as follows:—

(1.) Paper endorsed “Modus tenendi Parliamenta in Hiberniâ,” as follows:—

Modus tenendi Parliamenta et Consilia in Hiberniâ.

Henricus Rex Angliæ, Conquestor et Dominus Hiberniæ &c., mittit hanc formam Archiepiscopis, Episcopis, Abbatibus, Prioribus, Cōmitibus, Baronibus, Justitiariis, Vicecomitibus, Majoribus, Prepositis, Ministris et omnibus fidelibus suis terræ Hiberniæ tenendi Parliamentum. Imprimis.

Summonitio.

Summonitio Parliamenti præcedere debet per quadraginta dies ante primum diem Parliamenti.

Summonitio Clericorum.

Summoneri et venire debent ad Parliamentum omnes Archiepiscopi, Episcopi, Abbates, Priores et alii Clerici, qui tenent per tenuram comitatus vel baroniæ integræ et nulli alii minores eustibus propter hujus causa tenuræ suæ.

Item.

Item, summoneri debent Archiepiscopi, Episcopi, Abbates, Priores, Decani et Archidiaconi exempti et alii privilegii qui habuerunt jurisdictionem quod ipsi de ascensu Cleri pro quolibet Decanatu et Archidiaconatu Hiberniæ et pro scipsis Decanis et Archidiaconis facere eligere debent duos sapientes et competentes procuratores pro propriis Archidiaconibus adveniendum et essendum ad Parliamentum ad respondendum, supportandum, locandum et faciendum quod quilibet et ejus de Decanatibus et Archidecanatibus facerent vel faceret, si personaliter interessent vel interesset, et quod Procuratores veniant cum warantis suis duplicatis signatis sigillis superiorum suorum, unde unum deliberetur Clerico Parliamenti irrotulandum et aliud secum remaneat.

Summonitio Laicorum.

Summoneri et venire debent omnes Sectatores et quilibet Comes et Baro et Pares eor videlicet qui habent terras[et] redditus ad valentiam unius comitatus integri quod viginti feoda militis, quolibet computato ad xx libras quæ faciunt ecce, vel valore Baroniæ integræ, videlicet tresdecem feoda militum et tertiam partem feodi unius militis, quæ faciunt ecce mareas; et nulli minores laici vel clerici eustibus propriis causâ tenuræ suæ, nisi Rex summon[eat] conciliarios suos vel alios sapientes ex materia eausa quibus mittere solebat precando eos eustibus ipsius Regis venire et esse in Parlamento suo.

Milites Comitatum.

Item, per breve Rex mittere debet cuilibet Seneschallo libertatis et cuilibet Vicecomiti suo Hiberniæ, quod faciant eligere quilibet de assensu communitatis libertatis et comitatus sui duos Milites competentes, honestos, et sapientes ad veniendum ad Parliamentum ad respondendum, supportandum, allocandum et faciendum quod omnes et quilibet communitatis libertatis et comitatus facerent vel faceret, si personaliter interessent vel

interesset, et quod Milites veniant cum warantis ut prædictum est de procuratoribus, et quod sine licentiâ Parliamenti non discedant a Parlamento, et post licentiam habeant breve directum Seneschallo vel Vicecomiti, quod faciat dictos milites suos habere de communitate suâ rationabiles custus et expensas suas a die remotionis eorum versus Parliamentum usque rationabilem diem, quo ad propria revenire a Parlamento potuerunt, et quod expensæ non excedant unam marcam de duobus militibus per diem.

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Cives et Burgenses.

Item, eodem modo mittendum est Majoribus, Ballivis, Præpositis civitatum et Burgensibus defranseis quod de co[m]mun[i] assensu communium suorum eligant duos Cives vel Burgenses &c., ut dictum est supra de militibus et quod expensæ duorum Civium vel Burgens[ium] non excedant dimidiam marcam per diem.

Principalis Clericus.

Item, quod Rex inveniet custibus suis principalem Clericum Parliamenti ad irrotulandum communia placita et negotia Parliamenti qui tantum subjectus erit sine medio regi et Parlamento suo in communi et cum Pares Parliamenti sic assignati ad examinandum Petitiones per se ipsos, et sic concordēs in iudicio suo tunc Clericus prædictus repetet Petitiones et Processus super ipsos, et Pares reddent iudicium in pleno Parlamento, et iste Clericus sedebit in medio loco justiciæ. Item, quod justiciarius nullus erit in Parlamento nec habet per ipsum recordum fieri in Parlamento, ni nova potestas ei assignetur per Regem et Pares Parliamenti in Parlamento, et dictus Clericus deliberabit rotulos suos in thesaurum ante finem Parliamenti.

Clerici Parliamenti.

Item, Rex assignare solet custibus suis unum bonum Clericum probatum ad scribendum dubitationes et responsiones quas Archiepiscopi et Episcopi facere voluit (*sic*) Regi et Parlamento, et secundum Clericum Procuratoribus eodem modo $\frac{o}{v}$, [tertium] Comitibus, Baronibus et Paribus eorum eodem modo, quartum Militibus libertatum et comitatum et quintum cuilibet [Civibus] et Burgensibus, qui Clerici semper prædictis erunt in eorum consiliis intendentes quod si vacaverint vel aliquis eorum vacavit adjuvare debent Principalem Clericum ad irrotulandum et ad minus assignare debet unum Dominis et Communibus spiritualibus et alium Dominis et Communibus temporalibus, etiam Rex assignavit cum quolibet prædictorum Clericorum unum Hostiarium et unum Clamatorem.

Gradus Parliamenti.

De Rege solo est primus gradus Parliamenti, quia est caput, comensor, et finis Parliamenti. Secundus gradus de Archiepiscopis, Episcopis, Abbatibus, Prioribus et Paribus eorum per comitum vel baronum tenentibus est. Tertius gradus est de Procuratoribus. Quartus gradus est de Comitibus, Baronibus et eorum Paribus. Quintus gradus est de Militibus libertatum et comitatum. Sextus gradus est de Civibus et Burgensibus, Et sic [si] contingat quod aliquis dictorum graduum, excepto

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Rege, absens a Parlamento fuit, nihilominus Parliamentum judicatum est esse plenum.

De Præsentia Regis et de Absentia Ejus.

Rex tenetur semper esse in Parlamento personaliter, ni infirmitate impediatur, et tunc infra manerium vel villam Parliamentum debet essendum et mittere debet pro duobus Episcopis, duobus Comitibus, duobus Baronibus, duobus Militibus Comitatum, duobus Civibus et duobus Burgensibus ad videndum personam suam et testificandum statum suum, in quorum etiam præsentia committere debet Archiepiscopo loci, Comiti terræ, et Capitali Justiciario suo quod incipiant et continuant Parliamentum nomine suo, et Rex absentare non potest nisi modo et causa supradictis, ni sit ex assensu Parium Parliamenti.

Sessiones in Parlamento.

Rex sedebit in medio Principalis Scanni, et ad ejus dexteram Archiepiscopus loci Ardnachanus vel Dublin, et si extra eorum limites Parliamentum sit, tunc a dextera Regis Archiepiscopus Ardmarr, et Cassellum et a sinistra Regis Dublin et Tuamen, deinde volumus a dextera Episcopi, Abbates, Priores in secunda formula secundum ordinationem, a sinistra in formula Comites, Barones et eorum Pares secundum ordinem. Ad pedem dexterum Regis sedebit Cancellarius, Capitalis Justiciarius cum suis sociis et eorum Clericis, et ad pedem sinistrum sedebunt Thesaurarius et Camerarius et Barones de Scaccario, Justiciario de Banco et eorum Clerici, qui sint de Parlamento, deinde procuratores terræ sedebunt.

Amerciamenta Absentiæ.

Rex cum Consilio suo tenetur esse primo die in Parlamento et quarto die omnes summoniti ad Parliamentum erunt vocati et eorum defectus recordatur et per considerationem Regis et omnium Parium Parliamenti amerciamenta defectum taxata.

Dies, Horæ Parliamenti.

Parliamentum non debet tenci diebus Dominicis, nec die Omnium Sanctorum, nec die Animarum, nec in Nativitate Sancti Johannis Baptistæ. Omnibus aliis diebus Rex cum gradibus Parliamenti debent esse in Parlamento media hora ante primum, festinalibus vero diebus propter servitium Dominium ad horam primam, et sic Parliamentum in apto loco semper.

Ordo deliberandi Parliamentum.

Petitiones sint affilati sicut deliberentur, et sic per ordinem legantur, et respondeantur; scilicet, primo determinentur quæ ad guerram pertinent, postea de persona Regis et Reginae et principis sui ac gubernatione eorum, et postea de communibus negotiis terræ, sicut est de legibus faciendis et emendandis, videlicet originalibus, judicialibus et executoriis post judicium redditum, et postea singulares Petitiones, secundum quod super filatoria; et primo die Parliamenti sit Proclamatio facta, in villa et in loco Parliamenti, quod omnes qui querelas vel petitiones velint deliberare Parlamento, id quod faciant infra quintam diem sequentem.

Inceptio Parliamenti.

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Quarto die Parliamenti vel quinto prædicatio fiat de aliquo solemnî clerico ejusdem Dios [Diocese], et post procurationem, Cancellarius vel alius sapiens et eloquens et honestus per Cancellarium electus monstrabit causas Parliamenti, primo generaliter et postea specialiter, stando, quod quilibet loquens in Parlamento tenetur stare loquendo, excepto Rege, ut ab omnibus audiatur, et post promotionem Parliamenti Rex debet precari Clericos et Laicos quod quilibet in suo gradu diligenter, studiose et cordialiter laboret ad tractanda et deliberanda negotia Parliamenti, sicut principaliter intendunt hoc esse primo ad voluntatem Domini, et postea ad honorem et proficium Regis et ipsorum præsentium.

De Adjutoriis postulandis.

Rex non solet auxilium petere de populo suo nisi pro guerra sua existente vel filiabus maritandis, quæ Petitiones in pleno Parlamento debent in scriptura deliberari cuilibet gradui Parliamenti, et in scriptura respondendi, unde sciendum est quod in talibus concessionibus necessarium est ut majores partes cujuslibet status sint ad hoc consentientes, et sciendum quod duo milites electi habent plus vocis in concedendo vel negando pro comitatu suo quam Comes ejusdem comitatûs, et eodem modo Procuratores Clericorum plus Episcopis suis in concedendo vel negando, quod apparet quia Rex cum communitate sua potest tenere Parliamentum sine Episcopis, Comitibus et Baronibus, si rationabiliter summoniti non venirent, quia aliquando fuit quod non fuerunt Episcopus, Comes nec Baro, et tunc Reges tenuerunt Parliamentum, et si communes clericorum et laicorum sint summoniti modo debito ad Parliamentum et pro rationabili causa venire nolunt, similiter si assignaverint specialiter causas in quibus Rex eos non recte gubernavit, tunc Parliamentum tenebitur pro nullo quamvis alii status ibidem plenarie interfuit (*sic*), et ideo necessarium est quod in omnibus concedendum et faciendum, affirmandum et donandum Parliamentum [Parlamento] quod sint concessa per Communes Parliamenti, qui constant ex tribus gradibus, videlicet, de Procuratoribus Clericorum, Militibus Comitatum, Civibus et Burgensibus. Et quilibet Parium Parliamenti est pro seipso in Parlamento et omnes Pares Parliamenti sunt iudices et justiciarii in Parlamento, et sedebunt vel quum loquuntur Communes vero sunt querentes et necessitatibus subvenientes et stabunt.

Judicium Casus Dubii.

Si dubius casus vel durus guerræ vel pacis in terra advenerit, vel extra terram, ista causa sit scripta in Parlamento pleno, et sit ibidem inter Pares Parliamenti disputata et tractata, et tunc, si necesse, per Regem injungatur cuilibet gradui, quod eat quilibet gradus per se hujus, Clericum cum causa scripta ubi recitabit causam. Ita quod ordinent, et considerent inter eos in quo meliore modo et justo procedere possunt in casu illo sicut pro persona Regis et seipsis ac pro quibus præsentibus sunt, velint coram Deo respondere, et sic responsiones eorum in Scriptura reportent ut omnibus responsionibus et consiliis auditis secundum melius consilium procedatur sicut si sit discordia inter Regem et alios magnatos pares terræ fracta fuit vel inter Populum. Ita quod videtur Parlamento quod talis causa sit per omnes gradus terræ tractanda et per eorum

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considerationem emendanda, vel si per guerram Rex et terra turbetur, vel si durus casus coram Cancellario vel Justiciario, aut durum Judicium advenerint, vel aliquis alius similis casus, et si in talibus deliberationibus omnes, vel saltem major pars cujuslibet gradus non consenserint, tunc de quolibet gradu Parlamenti extra Rege eligatur unus, qui omnis vel eorum tres ad minus eligant duos Episcopos, tres Procuratores pro toto Clero, duos Comites, tres Barones, quinque Milites Comitatum, quinque Cives et quinque Burgenses, qui faciant xxv personas, et in ipsis et ipsi sex intres. et condescendere qui a seipso descendere non potest, cujus ordinatio erit pro toto Parlamento, ni in altero ipsorum potest condescendere major numerus contentis possit; salvo Rege et Concilio, etiam quod ipsi tales ordinationes postquam scriptum fuerit, examinare et corrigere, si sciverint, possint in pleno Parlamento et non alibi, et hoc ex Parlamenti assensu transcript.

Transcript.

Clerici Parlamenti non denegabunt alicui transcripta vel processum Recordum Parlamenti qui solvere voluit, pro quibuslibet decem lineis, continentibus decem pollices in longitudine, quæ est mensura Rotuli Parlamenti, unum denarium.

Perjurus Rex.

Parlamentum erit tentum in loco competenti terræ, quo Regi placuit et Parlamentum non debet departiri qu[um] aliqu[a] Petitiō est pendens non determinat[a], Quod si Rex contrariu[m] fecerit, perjurus est; et Parlamentum non debet adjornari ni de consensu omnium Parium Parlamenti, et de omnibus gradibus Parlamenti nullus solus potest nec debet decedere a Parlamento sine licentiâ Regis et omnium Parium Parlamenti, et hoc in pleno Parlamento sine licentiâ.

De fine Parlamenti.

Ita quod inde fiat mentio in Rotulis Parlamenti, et si aliquis Parlamenti, durante Parlamento, infirmitate teneatur ita quod Parlamento accedere non possit, tunc infra quartum diem mittat excusatores Parlamento, quo die si non venient, mittantur ei de Paribus suis adjudendum et testificandum infirmitatem suam per Recordum eorum sit excusatus, vel in misericordia pro defectu, quod si non fitta (*sic*) infirmiter sit, tunc aliquem sufficientem coram ipsis ad essendum pro ipso in Parlamento, quia sanus de sana memoria non potest excusari ad depositionem Parlamenti primo demandare et proclamari debet aperte in Parlamento, si aliquis deliberavit Petitionem Parlamento cui factum non est responsum, et si nullus reclamât, est supponendum quod cuilibet Petitionem medicina rationabilis facta est, et tunc Cancellarius vel alius assignatus per Regem et Parlamentum debet dicere alta voce 'nos damus Parlamento licentiam dissolvi,' et sic finitur Parlamentum.

De Conciliis.

Et etiam Rex vult quod eadem forma in Conciliis per summonitionem factam observetur, excepto quod pro Rege et legibus in ipsis Conciliis erunt Ordinationes in Parlamento vero Statuta.

Constitutio Justiciæ in Hiberniâ.

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Et etiam Rex vult ut absent. Reg. a dicta terra sine Procuratore ejusdem terræ quocunque alio nomine censeatur.

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Examinat. per J. Hardisty.

Joseph Hardisty, of the City of Dublin, Esq., came this day before me and made oath that he hath carefully examined the above copy with the Parchment Roll supposed to be the original Record, and deposeth that the same is a true copy thereof, as he verily believes.

J. Hardisty.

Jur. cor. me 4 die Februarii 1697. R. Pyne.

(2.) Copy Record of proceeding in "The King v. Denne," as follows:—

Anno 22 Edwardi Tertii, coram Waltero Bermingham, Justic. Hiberniæ Dominus Rex mandavit quoddam breve suum de Angliâ Justic. suo Hiberniæ vel ejus locum tenenti in hæc verba. Edwardus, Dei gratiâ Rex Angliæ et Franciæ et Dominus Hiberniæ, Justic. suo Hiberniæ qui nunc est, vel qui pro tempore erit, seu ejusdem Justic. locum tenenti ibidem, Salutem. Quia in Recordo et Processu ac etiam in redditione judicii utlegariæ versus Reginaldum, filium Radulphi de Denne, nuper de diversis felonis et transgressionibus indictatum coram Fratre Rogero, Outlaw, nuper Priore Hospitalis Sancti Johannis Jerusalem in Hiberniâ, tunc tenente locum Johannis Darby, Justic. nostri Hiberniæ in Comitatu Crot. Kilkenny in Hiberniâ, promulgat. et coram eodem locum tenente retornat., ut dicitur, error intervenit manifestus ad grave dampnum ipsius Reginaldi, sicut ex querela sua accepimus, Nos Errorem, si quis in Recordo et Processu ac etiam in redditione judicii prædictis intervenerit, modo debito corrigi et præfato Reginaldo debitum et festinum Justitiæ complementum fieri volentes, vobis mandamus, quod, si judicium inde redditum sit, tunc Recordum et Processum prædictos, cum omnibus ea tangentibus, quæ in custodiâ vestrâ existunt, ut dicitur, coram vobis in Consilio nostro terræ prædictæ venire faciatis vocatisque coram vobis servientibus nostris ibidem et aliis, quos in hac parte fore videritis evocand. auditisque hinc inde eorum rationibus ulterius in præmissis, tam pro nobis quam pro prædicto Reginaldo, fieri fac. quod de jure et secundum legem et consuetudinem terræ prædictæ fuerit faciendum. Teste meipso apud Westmonasterium xxii^o die Maii, anno regni nostri Angliæ vicesimo, regni vero nostri Franciæ septimo. Et super hoc, prædictus Reginaldus postea venit in curiam Domini Regis coram Fratre Johanne Larcher, Priore Hospitalis Sancti Johannis Jerusalem in Hiberniâ, tenen[te] locum Walteri de Bermingham, Justic. Hiberniæ, et protulit quandam Cartam domini Regis sub sigillo suo, quo utitur in Hiberniâ, signat[am] in hæc verba: Edwardus, Dei gratia Rex Angliæ et Franciæ et Dominus Hiberniæ, omnibus Ballivis et fidelibus suis ad quos præsentis litteræ pervenerint, Salutem; Sciatis quod per finem quam Reginaldus, filius Radulphi de Denne fecit nobiscum, pardonavimus eodem Reginaldo sectam pacis nostræ quæ ad nos pertinet de omnibus transgressionibus et felonis per ipsum contra pacem nostram in terrâ nostrâ Hiberniæ usque ad diem confessionis præsentium perpetratis, unde indictatus, rectatus seu appellatus existit, ac etiam utlegariâ si quæ in ipsum hiis

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occasionibus fuerit promulgat. morte Willielmi de Burgo nuper Comitis Ultoniæ, Walteri de la Hyde, nuper Vicecomite Comitatus nostri Medie [Meath], Johannis de Rupe, militis, Johannis de Stocton et adhærentiæ, Scotis inimicis et rebellibus nostris duntaxat exceptis, Et firmam pacem nostram ei inde concedimus. Ita tamen quod stet recto in cur[ia] nostra si quis versus eum loqui voluerit de transgressionibus, felonis et utlegariis supradictis. In cujus rei testimonium has literas nostras fieri fecimus patentes. Teste Waltero de Bermingham, Justic. nostro Hiberniæ, apud Kilkenny xxvii die Octobris anno regni nostri Angliæ vicesimo, regni vero nostri Franciæ septimo; Virtute cujus Cartæ, idem Reginaldus dicit quod ipse abilis est ad proseguendum, &c., ad errores, si qua in Recordo et Processu utlegariæ prædictæ intervenerint, corrigend., et petit eum ad hoc admitti &c., et admittitur per curiam &c. Et super hoc, idem Reginaldus dicit quod erratum est in Recordo et Processu utlegariæ prædictæ in hoc, videlicet, quod in brevi de capiend. dictum Reginaldum probatur quod idem Reginaldus indictatus fuit de rectis &c. primo in præmiss[is] erratum est in hoc quod in brevi de capiend. dictum Reginaldum probatur quod idem Reginaldus indictatus fuit de rectis &c., et in brevi de exigendo dictum Reginaldum probatur quod dictus Reginaldus indictatus fuit de diversis transgressionibus et felonis, et sic propter illam variationem breviam de exigendo exeunt sine warranto, per quod in utlegariæ prædictæ erratum est; Item erratum est in hoc quod cum breve de exigendo directum fuit vicecomiti quod coram se et custode placitorum Coronæ exigere faceret prædictum Reginaldum, quod quid[em] breve retornatum fuit per vicecomitem &c., quod coram se et Willielmo Payne, custode placitorum Coronæ in eodem concilio, ad quinque concilia idem Reginaldus exactus fuerit, et pro eo, quod non comparuit, utlegatus fuit, prout plenius pater per Recordum, et ex hoc quod breve de exigendo voluit quod coram custodibus placitorum Coronæ &c., exigere debuisset, et per retornum dictæ utlegariæ probatur quod quilibet Concilium tent. fuit coram vicecomitate et tantomodo coram uno Coronatore, quod quidem retornum sic item non erat warrant. de brevi de exigendo et in hoc erratum, &c. Item erratum est in hoc quod cum breve de exigendo voluit quod coram custodibus placitorum Coronæ domini Regis exigere fac. &c., et in retorno dicti brevis probatur quod virtute brevis predicti primum Concilium tent. fuit coram vicecomitate &c. et Willielmo Payne, custod. placitorum Coronæ domini, et ex quo in dicto retorno non probatur quod fuit Coronator domini Regis, per quod dictum retornum est insufficiens et sic erratum est; Item erratum est in hoc, quod ubi quodlibet breve de exigendo retornatum est in retorno dicti brevis debet dici quod ipse, qui debet utlegari ad primum Concilium si non comparuit primo exactus non venit, et ad secundum Concilium secundo exactus non venit et ad tertium tertio exactus non venit, et sic de singulis, quodque defaulto in retorno prædicto, prout patet per Recordum, et sic erratum est &c. Item erratum est in hoc quod ubi probatur per retornum dictæ utlegariæ, quod ad quartum Concilium idem Reginaldus mancaptus fuit per quemdam Willielmum [Brown] usque ad proximum Concilium ad standum recto coram Johanne Talbot vicecomite et Willielmo Payne, Custod. Placitorum Coronæ quæquidem

manucaption. ad habendum corpus suum coram vicecomite et sub nomine ipsius vicecomitis &c. etiam coram Coronatore sub nomine ipsius Coronatoris fuit insufficiens et contra lege[m] per quod utlegaria in ipsum Reginaldum postea ad proximum Conc[ilium], ratione manucaptionis prædictæ, erratum fuit et versus &c. et sic erratum est; Item erratum est in hoc quod breve de exigendo non debet emanare nisi breve de Capias fuerit retornatum per ipsum cum idem breve fuit directum et ad prædictum breve de Capias nullus vicecomes respondet, per quod dicit, quod illud breve de exigendo cond[itur] antequam breve de Capias fuerit retornatum, fuit error in lege. Item erratum est in hoc, quod vicecomes fecit processum in prædicto brevi de exigendo sine warranto, quia dictum breve tale fuit Edwardus, Dei gratiâ Rex Franciæ et Dominus Hiberniæ, ut patet per retornum dicti vicecomitis et sic erratum est; Item erratum est in hoc quod quilibet qui utlegandus est, debet utlegari ad quartum (Conc[ilium]), nisi, fuit mancaptus. Et probatur per retornum dicti vicecomitis quod quidem Reginaldus de Denne fuit mancaptus et non Reginaldus, filius Radulphi de Denne, per quod &c. et in hoc erratum est, quos quidem errores prædictus Reginaldus petit corrigi et sibi justitiam fieri in præmissis &c. Et Willielmus de [illegible], qui sequitur pro domino Rege, dicit quod prædictus Reginaldus [prosequitur] de erroribus, in Recordo et Processu prædictis intervenientibus, corrigend. admitti non debet, quia dicit quod idem Reginaldus hic in Curiâ protulit quamdam Cartam domini Regis de pardonatione utlegariæ prædictæ, quæ Carta in rotulis Canc. Hiberniæ de Recordo irrotulatur, &c., et unde dicit ex quo idem Reginaldus acceptavit utlegariam &c., et prædictam in ipsum esse promulgat[am], non intendit quod ipse ad eandem utlegariam modo annullandam admitti debeat per quos quoad hoc petit iudicium &c. Et quoad hoc, quod prædictus Reginaldus dicit quod erratum est in Recordo et Processu prædictis in hoc, quod breve de exigendo vicecomiti directum supponitur quod idem Reginaldus utlegari deberet coram ipso vicecomite et custodibus placitorum coronæ domini Regis &c. Et prædictus Reginaldus utlegatus fuit coram uno Coronatore tantum, prout patet per Recordum &c. Idem Willielmus qui sequitur pro domino Rege, dicit quod in omni tempore transacto quo Coronator fuit ibidem &c., non fuerit nisi unus Coronator Conc[ilii], per quod dicit quod utlegaria prædicta in hoc non est erron[ea] &c. Et si idem Reginaldus non velit dedicere, &c., et hoc offert verificare pro domino Rege &c.; Dicit etiam ad hoc quod prædictus Reginaldus assignat pro erroribus, in dicto Recordo et Processu intervenientibus, et in hoc quod primum [Concilium] tentum fuit coram Johanne Talbot vicecomes et Willielmo Payne, Custode placitorum Coronæ domini et idem Willielmus de [illegible] dicit quod prædictus Willielmus Payne tunc fuit Coronator domini Regis &c., et hoc offert verificare &c. Et quoad residuum quod præfatus Reginaldus assignat pro erroribus, dicit quod non sunt errores, et petit inde iudicium etc. Et prædictus Reginaldus dicit quoad hoc quod allegatur pro domino Rege, quod prosequend. Adnullationem Recordi et Processus prædictorum, causa error[um] &c. admitti non debet. Et quod cartam domini Regis de pardonatione utlegariæ prædictæ preposuit, dictamque utlegariam taliter acceptans, et dicit quod ipse cartam illam

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preposuit ad ipsum faciend. abilem &c., de prosecutione illa faciend. errorem et non aliâ de causâ &c. et inde petit iudicium &c., et petit quod Curia &c. procedat ad rect[ificati]onem dictorum Errorum &c. Et quoad hoc, quod prædictus Willielmus, qui sequitur pro domino Rege, offert verificare pro ipso domino Rege quod ab omni tempore transacto non fuit nisi unus Coronator in Conc[ilio] prædicto, idem Reginaldus dicit quod in dicta Utlegaria retorn. fuit per vicecomite &c. Idem vicecomes tunc retornasse debuit quod non fuere plures Coronatores in Conc[ilio] prædicto, et hoc, ut patet, Recordo et Processu utlegariæ prædictæ retornari deberet contra quod de lege nulla verificationem habere potest &c. per quod petit quod Curia &c. ad rect[ificati]onem dictorum Record. et Process., necnon ad adnullationem eorumdem ob causam errorum assignatorum procedat &c.; Et quoad hoc quod offert verificare, quod prædictus Willielmus Payne fuit Coronator domini Regis, idem Reginaldus dicit quod ex quo non probatur per Recordum quod tunc fuit Coronator domini Regis, et illud quod allegavit pro errore &c. in hoc &c. est [illegible] ejusdem Record[i] contra quod nulla verificatio datur de lege &c. Et prædictus Willielmus, qui pro domino Rege sequitur, nihil aliud respondi. ad Errores, petit eosdem errores per ipsum assignat[os] et alios si quis in dicto Recordo et Processu predict. intervenerint, per Curi[am] &c. corrigi et Justitia sibi fieri in præmissis &c.

Examinat. per J. Hardisty.

Cetera desunt.

J. Hardisty.

R. P.

Richard Vincent gent. came this day before me and made oath that he hath examined this copy with the original Record, and that the same is a true copy.

Jur. cor. mc 3^o die Feb. 1697,

RICH. VINCENT.

R. PYNE.

Endorsed No. 2.

- (3.) Copy Act of Parliament in case of *Prior of Lanthon. v. Prior of Mullingar*. 38 pages. Begins ("Act in Parlamento"). Ends ("aut ordinatione in contrarium facta non obstant &c.") Underwritten is a copy of the endorsement of the original Record, as follows: "Memorandum, quod decimo octavo die Septembris, anno regni Regis Henrici Sexti sexto, venerabilis in Christo pater Ricardus, Archiepiscopus Dublin, Cancellarius ipsius Domini Regis Hiberniæ, recepit apud Brynn istum tenorem Actus Parliamenti, unde in isto tenore sp[eci]alit[er] fit mentio ex delib[er]atione Thomæ Bron, Clerici dicti Parliamenti decreto consideratione et auctoritate ejusdem Parliamenti secundum formam decreti considerationis et auctoritatis supradictor[um] &c." Marked, like the above, examined, Cha. Baldwin, Cleric. et Custod. Rotulorum. *Endorsed* No. 3.
- (4.) Extract from Rolls of Parliament, 27 Hen. VI., cap. 16, relating to case of Baron of Galtrim *v.* Earl of Shrewsbury. Begins ("Itē al Supplicaciō"). Ends ("tout outīent discharge"). Examined, Cha. Baldwin, Cleric. et Custod. Rotul. *Endorsed* No. 4.

- (5.) Extract from same, 27 Hen. VI., cap. 25, relating to case of Chevernock *v.* Pigg. Begins ("Itm̃ al Supplicacion"). Ends ("come la ley demande"). Examined as preceding. *Endorsed* No. 5. 1697-8. — No. 1195.
- (6.) Extract from same, 26 Hen. VI., cap. 34, relating to case of Chambers *v.* The Barons of the Exchequer of Meath. Begins ("Itm̃ al Supplicacion"). Ends ("acte comprehende vite"). Examined as preceding. *Endorsed* No. 6.
- (7.) Extract from same, 7 Edw. IV., cap. 47, relating to case of Wells *v.* Phillips. Begins ("Itm̃ al Supplicacion"). Ends ("le dit Mathew"). Examined as preceding. *Endorsed* No. 7.
- (8.) Extract from same, 18 Edw. IV., cap. 1, relating to case of Dean of Kildare *v.* Parker. Begins ("Itm̃ al Supplicacion"). Ends ("chescun avet"). Examined as preceding. *Endorsed* No. 8.
- (9.) Extract from same, 5 Edw. IV., cap. 37, relating to the trial of Michael, Archbishop of Dublin. Begins ("Itm̃ al Supplicacioñ"). Ends ("sive Ordinacio. predict."). Examined as preceding. *Endorsed* No. 9.
- (10.) Certified extract from Journal of the Irish House of Lords of 2 August 1634, relating to the fining of absent Lords who have not sent proxies or made fit excuse. Begins ("Mr. Attorney-General, at the Bar, moved"); Ends ("to do any-thing therein"). L. J. (Irish), I. 20. *In extenso*.* *Certified* as correct by Gerard Bor, Cler. Parliamentor. *Endorsed* "Amercement of Lords: which shows the Jurisdiction of the House of Lords and that they affirmed it, and the King allowed it, or his Attorney could not have moved it. The Rough Journal not found marked in fo. No. 10."
- (10¹.) Extract from same of 15 December 1634, as follows:—
"Die Lunæ, 15^o die Decembris 1634, annoque Regis Caroli 10. The King's Attorney moves at Bar that the Lords absent from the Parliament without Licence may be fined and amerced. Lord Chancellor said some had licence from the Lord Deputy and some were sick, therefore his Lordship thought it fit a Committee were appointed to examine the Proxies and Licences, that some may be amerced lest conformity be wanting next Session." *Certified and signed* as follows:—This for so much agreth with the Journal of the House of Lords. Gerard Bor, Cler. Parliamentor. R.P. [Appended to preceding. This entry is not found in the printed Journal.]
- (11.) Extract from same of 25th July 1634, as follows:—
"Die Veneris, Scilicet 25^o die Julii Anno Domini 1634, Anno que Regis domini nostri Caroli 10. Lord Chancellor moved the Judges, who conceived an adjournment of the House every day was necessary, this being a Court of law, the highest in the Kingdom that sends Writs of Error to the King's Bench." *Certified and signed* as preceding. *Endorsed* "Lord Chancellor's opinion of Writs of Error, No. 11."
- (12.) Extract from same of 20 November 1634, relating to fees in suits between party and party. Begins ("Their Lordships conceive it fit"). Ends ("should be as Dukes"). *Certified and*

* This extract contains the words, "Tho. Preston, Ul. K. of Arms," at the end of the list of Peers, which are not in the printed Journal.

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signed as preceding. L. J. (Irish), I. 32. *In extenso*.
Endorsed "Order about fees in suits between party and party."
No. 12.

(13.) Three extracts from same, *endorsed* "Bishop Ardagh's case touching a summons from the House of Commons in England and Letter of the House of Lords in Ireland to the Speaker of the House of Commons in England," viz:—

(i.) 1 March 1640. Begins ("Upon reading of a Petition"). Ends ("Committee of Privileges"). L. J. (Irish), I. 171. *In extenso*.

(ii.) 2 March 1640. Begins ("It is this day ordered"). Ends ("at the suit of Teige O'Roddy"). L. J. (Irish), I. 172. *In extenso*.

(iii.) 3 March 1640. Begins ("The Letter in the behalf of"). Ends ("Speaker of the House of Commons in England"). L. J. (Irish), I. 173-4. *In extenso*.

Each of these three extracts, which form one number (No. 13) are *certified and signed* in the same manner as the preceding extracts.

(13A) Extract from same, *endorsed* "Representation to the King "for redress in cases where Members of this House or attendants "have been sued or questioned in England," dated 4th March 1640. *Certified and signed* as preceding papers. L. J. (Irish), I. 176. *In extenso*.

(14). Extracts from same, relating to Impachment against the Lord Chancellor &c, viz:—

(i.) 27 Feb. 1640. From ("The Gentleman brings word") to ("Mr. Justice Rives sent with that message"). L. J. (Irish), I. 165-8. *In extenso*; and from ("Gentleman Usher brings word") to ("in like cases may be observed"). *Ib.* 168. *In extenso*. *Certified and signed* by Gerard Bor, Cler. Parliamentor. *Endorsed* No. 14.

(ii.) 4 March 1640. Message of a Committee from the Commons attending called in. Lord Chancellor, assisted with divers others, go to the Bar and receive it. Lord Chancellor returns and reports that their Lordships may remember how that formerly, that made an accusation of treason against his Lordship and others, and how had brought in the charge, with desire that their persons may be secured, that they may be sequestered from all places of judicature and put from the Council Board, and that they may answer. Lord Maguire moves as was above resolved. [L. J. (Irish), I. 176^b, line 6, to 177^a, line 23. *In extenso*.] Earl of Ormond and the rest of the Committee return from the Lords Justices, and the Earl reports that they attended the Lords Justices, and read the charge, and acquainted their Lordships with the Resolution of the House to commit the Lord Chancellor and Lord Lowther, but leaving it to their Lordships, as best knowing his Majesty's occasions, wherein they were employed, and desired further to know whether the House should continue or be prorogued, that a time might be thought on for to assign them to answer, and last of all, that they desired their Lordships' advice for the manner how to commit. That their Lordships were of opinion, that the charge was too general to be answered unto; secondly, that there was no treason therein expressed, though the charge were proved, and therefore till a

more particular charge bail might be taken; thirdly, that the eleventh of May is to be the next meeting, and that no prorogation shall be till to-morrow. House into a Committee. *Lord Lambert*: Two questions now proposed; first, whether charge so general as not to be answered or make a committal upon; secondly, whether treason or no. That there is enough for a committitur in subverting the lines &c. Articles again read. *Earl of Ormond* desired to be informed, whether the charge be particular or no, to be answered unto or no, and if any ground for committal. *Lord of Inchiquin* desired to know whether the charge, if proved, were treason or no. *Lord Moore* holds it fit to ask the Judges in the points. *Lord Lambert* holds them too general. Judges demanded on the several points. *Baron Hilton* says that if their Lordships judge the generals to include particulars of treason then he holds it fit they should answer, and whether there be in the articles treason or no, he desires time to deliver any opinion. *Justice Donnellan* desires time, and being required to deliver his opinion, says, that if the question be whether those Articles be so particular as to give judgment on, he does conceive they are not; if ground of committal by the late precedents in England, he conceives they are. Whether they contain treason or no, he desires the Act of Parliament 25 Edw. III. cap. 2 be considered. He does not know how they may be treason, but by the last clause in that Act, the Parliament is to judge. *Baron Barry* says he hath viewed all the Parliament Rolls of this Kingdom, and can find no precedent for this proceeding. That the Articles are too general, as he thinks. An Indictment so would be void, if a Bill, a Demurrer. Whether the Articles contain treason or no, he is doubtful. Doubtful whether the Act 25 Edward III. cap. 2 be an Act explanatory or introductory. He sees nothing there but what was treason by the Common law before. *Justice Cressey* conceives with those that went before, and with their Lordships that hold the Articles too general to be answered unto; yet, if any doubt of escape [be] ground of committal, he conceives the Statute 25 Edward III. definitive, and that some things are there made treason that was not treason before, and doth not conceive these Articles to contain treason. *Justice Mayart* conceives that at the Common Law these Articles would be held too general, but in this Court their Lordships only are Judges of it, and may be guided by the proceedings at Common Law or by precedents as they see cause. These are eminent officers of State, and men of Estate, and at their Lordships' own discretion, whether to commit or no. In a private man's case, where danger of escape, committal were safest. For the matter, whether treason or no, he conceives it no time to determine till the proof and circumstances be considered, which must guide his judgment. *Lord Lambert* says committed to the Gentleman Usher of this House. [L. J. (Irish), I. 177^a, line 29, to 177^b, line 42. *In extenso*]. *Lord Moore* moves that it is fit to know whether any answer or no to the Articles. *Sir Gerard Lowther, Knight*, recognizance as before. [L. J. (Irish), I. 177^b, line 43 to 177^b, line 58. *In extenso*]. The outer room being cleared, the Lord Lowther is directed to withdraw. *Earl of Ormond* (the House being cleared) holds his request reasonable till to-morrow. *Lord Blayney* and *Lord Moore* similiter. *Lord Maguire* declares that at the Grand

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Committee it was voted otherwise, and ordered by the House even now that he should be committed and not bailed, and therefore fit to consider how it may become the gravity of the House to bail him. Upon the humble motion of Sir Gerard Lowther, knight, Lord Chief Justice of his Majesty's Court of Common Pleas, at the Bar of this House, it is this day Ordered by the Lords Spiritual and Temporal, in this present Parliament assembled, upon Question that the said Sir Gerard Lowther shall forthwith enter into a Recognizance to his Majesty's use in the sum of twenty thousand pounds before the Lord Chancellor, with condition personally to appear in this House to-morrow morning at eight of the clock. *Lord Chancellor* moves that the Lord Lowther may be called to his place on the woolsack. *Signed and certified* by Gerard Bor, Cler. Parliamentor.

(iii.) Die Veneris 5 March 1640.* *Lord Chancellor* and *Lord Lowther* appeared personally. It is this day ordered that the Lord Viscount Moore and the Lord Lambert, as a Committee of the House, shall forthwith attend the Lords Justices to acquaint their Lordships that they are now in debate of the Articles of Treason exhibited against the Lord Chancellor, the Lord Bishop of Derry and the Lord Chief Justice of Common Pleas, and therefore humbly to desire their Lordships to forbear prorogation till the House have fallen to a Resolution in this weighty business. House in Committee. *Lord Moore* moves that the Lord Chancellor and Lord Lowther may be bailed, by reason of their places at the Council Board. *Lord of Slane* moves that the Lord of Derry and the Lord Lowther be committed, and that the Lord Chancellor's committal be referred to the Lords Justices, with knowledge that it is the judgment of this House to commit him, and that neither of them be employed at Council table or elsewhere. *Lord Lambert* moves that yesterday he was of opinion to favour the great persons accused, but now, upon viewing of the charge laid against the Earl of Strafford in England, he is of opinion that such of these as are lawyers are less to be excused, and therefore holds it fit to commit Lord of Derry and Lord Lowther, and to move the Lords Justices for a new Speaker, that they may commit Lord Chancellor. Desire Question put. *Earl of Ormond* of another mind. *Lord Moore* conceives by the proceedings of it [L. J. (Irish), I. 177^b line 59 to 178^a line 12. *In extenso*]† *Baron Barry*; By the Canon, Bishops cannot be put in trial of matters of blood. This matter of blood. Once a Bishop Speaker, and because a trial of matter of blood he was put off and another chosen, but being a privilege granted them, he conceives they may renounce it, if they please, and give their vote. *Justice Cressey* conceives that in this case they may waive the privilege, and give their vote. *Justice Mayart similiter*. Bishops called, with the rest would not suffer it. [L. J. (Irish), I. 178^a, line 13, to 178^b *ad fin.*]† Upon Certificate of the appearance of the Lord Chancellor and Lord Lowther, their Recognizances are to be cancelled. It is this day ordered by the Lords Spiritual and Temporal, in this present Parliament assembled, upon consideration of the charge of high treason exhibited against Sir Gerard Lowther, Knt.,

* No proceedings of this day are recorded in the printed Journal.

† Entered in the printed Journal as part of the proceedings of 4 March.

Lord Chief Justice of his Majesty's Court of Common Pleas, by the Commons' House of Parliament, and of the Report of the Grand Committee of this House, that the said Sir Gerard Lowther shall stand committed for the same to the custody of the Gentleman Usher of this House. *Earl of Ormond* moves that a message may be sent to the Lords Justices of the proceedings of the House, and to leave it to their Lordships to do what they please in bailing or not bailing the parties impeached, not doubting but that their Lordships, being trusted by his Majesty, will do what is fit for his Majesty's service, for which they will be answerable.

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<i>The Earl of Ormond</i>	} Sent to the Lords Justices.
<i>Lord Viscount Moore</i>	
<i>Lord Viscount Nettervill</i>	
<i>Lord Viscount Mayo</i>	
<i>Lord of Slane</i>	
<i>Lord Lambert</i>	

Lord Moore reports that, according to the pleasure of this House, the Committee attended the Lords Justices, and that the Earl of Ormond being stayed to wait on the Lords Justices to this House, his Lordship was desired to report to the House what they delivered to the Lords Justices by command, which was, that this House had committed the Lord Bishop of Derry and Sir Gerard Lowther, Knt., Lord Chief Justice of the Court of Common Pleas, to the custody of the Gentleman Usher of this House upon the articles of treason exhibited against them by the House of Commons, and that it was the sense of this House to commit Sir Richard Bolton, Knt., Lord Chancellor, but that, considering his place here, and that he hath the custody of his Majesty's great Seal, the House was doubtful of the manner of it, and withal delivered to their Lordships the sense of this House, that neither of them were fit to be continued at the Council board, or in any employment, and that the House thought not fit to bail them, but because their Lordships best understood how far the matter concerned his Majesty's service, they did humbly leave it to their Lordships' wisdoms. *Signed and certified* by Gerard Bor, Cler. Parliamentor. *Endorsed* "About the Impeachment against L. Chaneellor and others, on which some committed, &c., 4 Martii (40), 5 Martii (40)." No. 14.

- (15.) Extract from same of 9 Feb. 1662. Begins ("Ordered that Sir William Aston"). Ends ("in ease of Appeal, Writ of Error or Matter of Privilege").* L. J. (Irish), I. 364. *In extenso. Signed and certified* as preceding. *Endorsed* "Order about hearing Causes before the House, wherein they resolve to hear no Causes determinable in other Courts but in case of Privilege, Writ of Error or Appeal."
- (16.) Extract from same of 25† June 1662, relating to case of *Lec v. Lesley*. Begins ("The Earl of Roscommon reporteth"). Ends ("common law and ordinary"). L. J. (Irish), I. 311. *In extenso. Signed and certified* as preceding. *Endorsed* "Order in Lee and Lesley's business. Dismissed"

* The printed Journal differs by concluding with the words ("Appeal or Writ of Error").

† The printed Journal gives this entry under date 14 (not 25) June, and dates the Order of the Committee 14 (not 24) June.

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because it did not come by way of Appeal. Fo. 94, 25 June 1662." No. 16.

- (17.) Extracts (2) from same, relating to case of *Parkes v. Keane and O'Hara*, viz. :—

(i.) 20 Dec. 1662. Begins ("Memorandum : that the Lord Baron of Santry"). Ends ("first day of next sitting"). L. J. (Irish), I. 362. *In extenso*.

(ii.) 9 April 1663. Begins ("Mr. Jeffery Browne"). Ends ("or his Agent"). L. J. (Irish), I. 378. *In extenso*. [Appended to preceding.] *Signed and certified* as preceding. *Endorsed* "Kcane and O'Hara's case against Parkes on a Writ of Error for removing a Cause out of the King's Bench in debt, with the Writ of Error and Record Lodged, and Order thereon. Fo. 166." "No. 17. This relates to 33."

- (18.) Extracts (5) from same, similarly *signed and certified*, as follows :—

(i.) 7 Dec. 1665. Begins ("Earl of Roscommon"). Ends ("matter in question"). L. J. (Irish), I. 387. *In extenso*.

(ii.) 14 Dec. 1665. Begins ("The Lord Primate reporteth"). Ends ("the said Mr. Savage"). L. J. (Irish), I. 389-90. *In extenso*.

(iii.) 16 Dec. 1665. Begins ("The Lord Primate reports"). Ends ("words conceived as aforesaid"). L. J. (Irish), I. 391. *In extenso*.

(iv.) 22 Jan. 1665. Begins ("The Report of the Committee touching a *certiorari*"). Ends ("Report of their Committee"). L. J. (Irish), I. 399-400. *In extenso*.*

(v.) 29 Jan. 1665. Begins ("The Lord Aungier"). Ends ("presentments and proceedings"). L. J. (Irish), I. 400. *In extenso*. *Endorsed* "Several Lords' cases against Savage for presenting them to the outlawries on indictment of nuisances." "No. 18. This relates to No. 31."

- (19.) Extract from same of 5 July 1661, relating to case of *E. Clancarty*. Begins ("The Bishop of Meath reporteth"). Ends ("Lord Chancellor to that purpose"). L. J. (Irish), I. 257. *In extenso*. *Signed and certified* as preceding. *Endorsed* "Writ of Error in Earl of Clancarty's case of outlawry, wherein the Lord Chancellor is desired to seal it, and the House declare they will reverse. 5 July 1661, fo. 28." No. 19.

- (20.) Extracts (2) from same, similarly *signed and certified*, relating to case of *Nicholas Darcy*, as follows :—

(i.) 20 May 1661. Begins ("The Petition of Nicholas Darcy"). Ends ("unto the Petitioner"). L. J. (Irish), I. 236. *In extenso*.

(ii.) 22 May 1661. Begins ("The Bishop of Clogher reports"). Ends ("case of Nicholas Darcy"). L. J. (Irish), I. 237. *In extenso*. *Endorsed* : "Darcy's Order, fo. 6, about getting a Writ of Error to reverse Indictments." No. 20.

- (21.) Extracts (2) from same, similarly *signed and certified*, relating to case of *Gerard Wellesley*, as follows :—

(i.) 20 May 1661. Begins ("Gerard Wellesley's Petition"). Ends ("and grievances") L. J. (Irish), I. 236. *In extenso*.

* This extract omits the words from ("The House adjourned") to ("House re-assumed") in lines 5-7 of the printed Journal, p. 400.

(ii.) 9 July 1661. Begins ("The Report of Gerard Wellesley's case"). Ends ("their respective counties"). L. J. (Irish), I. 258-259. *In extenso*. *Endorsed*: "The Determination of Wellesley's case. Upon a Petition and Appeal, he is put into possession of his estate. This against a Decree of the Court of Claims." No. 21. 1697-8.
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(22.) Extracts from same, similarly *signed and certified*, relating to case of V. Ranelagh, as follows:—

(i.) 27 July 1661. Begins ("The Viscount Ranelagh's Petition"). Ends ("Committee of Grievances"). L. J. (Irish), I. 272. *In extenso*.

(ii.) 20 June 1662. "Whereas it appeareth unto this House that Arthur, Lord Viscount Ranelagh, having exhibited a Petition to this House the 27th of July last past, by way of Appeal, to be relieved against a Decretal Order given against him in the late pretended Court of Chancery in this Kingdom the 20th day of February 1658, in the time of the late Usurpers, at the suit of Dame Katherine Bingham and John Paulett, Gent. for the sum of 300*l.*, claimed to be due to the said John Paulett from the said Lord Ranelagh, which Petition, by Order of this House dated the 27th of July aforesaid, being referred to the Committee of Grievances, and the said John Paulett summoned to appear before the said Committee, he did accordingly appear the 29th of July aforesaid, and took forth a copy of the said Petition, but hath not hitherto answered the same, as appeareth unto this House; And whereas by an Order of the said Committee, conceived the 3rd day of this instant June, the said John Paulett was required within ten days after the date thereof to put in a full and perfect Answer to the Petition of the said Lord Ranelagh, or in failure thereof within the time aforesaid, it was resolved by the said Committee that the said Lord Viscount Ranelagh should be heard upon his said Petition *ex parte*; Now, forasmuch as the truth of all the premises doth appear unto this House, and that oath hath been made, that a copy of the said Order of the 3rd of this instant June was left at the house where the said John Paulett did usually lodge in Dublin, and the said John Paulett not having put in his Answer to the said Petition, but refusing to answer the same, as by the last-recited Order he was required to do, and that this House have received sufficient satisfaction of the injustice of the said Decretal Order; It is therefore this day resolved, upon the Question, by the Lords Spiritual and Temporal, *nemine contradicente*, That the aforesaid Decretal Order be, and hereby is reversed, repealed, declared and adjudged void and null to all intents and purposes; and that the said John Paulett be nevertheless at liberty to take his remedy (if any just cause he hath) by course of law or equity against the said Lord Viscount Ranelagh, who hath consented to waive his privilege as to this particular and submit unto a legal determination of the matter and controversy in the ordinary course of justice, whereof all persons whom it doth or may concern are required to take due notice and give obedience hereunto." *Endorsed* "Appeal of Lord Ranelagh, 27 July 1661, against a Decree given in 1658 against him and reversed. Fo. 92." No. 22.

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(23.) Extracts (4) from same, similarly *signed and certified*, relating to case of *L. Ely v. Barrett* and others, viz. :—

(i.) 19 March 1662. Begins ("The Petition of the Lord Viscount Loftus of Ely"). Ends ("view and perusal of this House"). L. J. (Irish), I. 371. *In extenso*.

(ii.) 6 April 1663. Begins ("The Petition of the Lord Viscount Loftus of Ely"). Ends ("privileges of this House"). L. J. (Irish), 375-6 *in extenso*. [This and the preceding extract are on one sheet of paper.] *Endorsed* "Lord Ely's Appeal against a Decree of the Lord Deputy and Council, and the proceedings thereupon at law. Fo. 175, 19 March 1662, and also an Order against a possession wrongfully taken from him, on which he is restored, 6 April 1663. *Memorandum* : "most business was at this time determined by the Government, and not in Court." No. 23.

(iii.) 9 April 1663. Begins ("Whereas this House is informed"). Ends ("indemnity of this House"). L. J. (Irish), I. 377. *In extenso*. *Endorsed* "The Lord Ely against Barrett and others, relating to the Appeal, and that Mr. Pooley should bring in the fines." No. 23.

(iv.) 9 April 1663. Begins ("A Message from the House of Commons"). Ends ("the sum 23,500*l.*" *). L. J. (Irish), I. 378. *In extenso*. *Endorsed* "The Lord Ely against Barrett—Defendant insists on privilege, being a member of the House of Commons." No. 23.

(24.) Extracts from same, similarly *signed and certified*, relating to case of *Lylles v. Creagh*, viz. :—

(i.) 16 August 1662. Begins ("The Lord Archbishop of Dublin"). Ends ("to examine witnesses upon Oath"). L. J. (Irish), I. 329-30. *In extenso*.

(ii.) 9 Feb. 1662. Begins ("Ordered that Lylles' Cause"). Ends ("his Petition and Complaint"). L. J. (Irish), I. 364. *In extenso*.

(iii.) 16 Feb. 1662. Begins ("Upon reading the Petition"). Ends ("this House in that behalf"). L. J. (Irish), I. 365. *In extenso*.

(iv.) 17 March 1662. Begins ("Question Whether the Cause"). Ends ("dismissed this House"). L. J. (Irish), I. 370. *In extenso*.

(v.) 26 March 1663. Begins ("The Petition of John Lylles"). Ends ("said High Court of Chancery"). L. J. (Irish), I. 373. *In extenso*. *Endorsed* "Lylles' and Creagh's case and Orders. Sent to Chancery after several Orders, but directions to make use of Depositions formerly taken by order of the House of Lords, and other proceedings, and to hasten the determination of it. Order, 16 Aug. 1662, and several Orders thereafter. Fol. 124." No. 24.

(25.) Extract from same of 15 June 1661, similarly *signed and certified*, relating to restoration of church lands. Begins ("By the Lords Spiritual and Temporal in Parliament assembled, Ordered that the Church"). Ends ("to the parties aggrieved"). L. J. (Irish), I. 248. *In extenso*. No. 25.

* In L. J. (Irish), the sum mentioned appears as 23,500*l.*

- (26.) Extract from same of 18 December 1665, similarly *signed and certified*, relating to case of L. Dungan v. Eustace and others, viz: "18 December 1665.* Whereas a Judgment was obtained in Easter term last in his Majesty's Court of Common Pleas against Edward Eustace, of Scurlogstowne, Michael McAnally, of Rabbins, Francis Dillon and others, the Terr. tenants of Sir John Dungan's lands, the execution of which Judgment, if the same should be executed, would be a manifest breach of the privilege due unto William, Lord Viscount Dungan of Clane, a peer of this Realm, sitting the Parliament, the said lands being now in his Lordship's possession. It is therefore ordered that the Lord Chief Justice and Court of Common Place (*sic*) be and are hereby required to make stay of execution thereupon, to the end of the honour of this House and the Lord Dungan's privileges may be preserved." *Endorsed* "Eustace and L. Dungan's tenants. Order prohibiting the execution of a judgment recovered for some of my L. Dungan's lands. 18 Dec. 1665. No. 199." No. 26. 1697-8. — No. 1195.
- (27.) Extract from same of 2 June 1662, similarly *signed and certified*, relating to the Bishop of Derry. Begins ("By the Lords Spiritual and Temporal in Parliament assembled, Ordered"). Ends ("forthwith into possession"). L. J. (Irish), I. 306. *In extenso*. *Endorsed* "Order that the Sheriff put Bishop of Derry in possession of Termonderry. Fo. 82." No. 27.
- (28.) Extracts (6) from same, similarly *signed and certified* relating to case of Phillipps v. Tyrrell, viz.:—
- (i.) 10 July 1662. Begins ("Ordered, that the difference"). Ends ("to-morrow morning"). L. J. (Irish), I. 317. *In extenso*.
 - (ii.) 12 July 1662. Begins ("The Cause betwixt Sir Timothy"). Ends ("Parties to the hearing"). L. J. (Irish), I. 318. *In extenso*.
 - (iii.) 2 Sept. 1662. Begins ("Ordered that the Cause." Ends ("and in whose right?"). L. J. (Irish), I. 336. *In extenso*.
 - (iv.) 3 Sept. 1662. Begins ("Mr. Phillipps and the Lady Tyrrell approach the Bar"). Ends ("Elizabeth Kennedy's Deposition read. They withdrew"). L. J. (Irish), I. 337. *In extenso*.
 - (v.) 4 Sept. 1662. Begins ("Robert Kennedy sworn"). Ends ("The Chancellor reporteth"). L. J. (Irish), I. 337-8. *In extenso*.
 - (vi.) 4 Sept. 1662. Begins ("Ordered upon Question"). Ends ("if any he hath"). L. J. (Irish), I. 338. *In extenso*.
 - (vii.) 8 Dec. 1665. Begins ("Whereas it appeareth"). Ends ("in the possession thereof"). L. J. (Irish), I. 389. *In extenso*. *Endorsed* "Difference between Phillipps and Tyrrell and Orders &c. about lands in Finglass claimed in right of the Church, and on full examination being quieted and the Sheriff put him in possession. Order of 10 July 1662 and several Orders thereafter. Fo. 102." No. 28.

* Not found in L. J. (Irish), of date.

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(29.) Extract from Irish Commons' Journal of 17 July 1641,* relating to ease of Bysse v. Watson, as follows:—

"17 July 1641. Whereas John Bysse, Recorder of the City of Dublin, Robert Bysse, and William Ball, Gent., have exhibited their Petition into this House against James and Philip Watson thereby demanding well nigh 1,150*l.* sterling, part whereof belongeth to three orphans, sisters to the Petitioners, and the rest to the Petitioners themselves, the which money was, as appears by the several bonds of the said James and Philip, produced in this House and payable to the several persons in manner following, viz^t, to John Bysse by bond payable the 28th January 1639, 31*l.*, to the said John Bysse by another bond payable the 10th of August 1640, 310*l.*, to the said John Bysse by another bond payable the said 10th of August 1640, 315*l.*, to the said John Bysse by another bond payable the said 10th of August 1640, 15*l.*, to the said Robert Bysse by bond payable the said 10th of August 1640, 380*l.*, to the said William Ball by bond payable the 15th January 1640, 353*l.* 17*s.* 2*d.*, all which several sums do in all amount to 1,441*l.* 17*s.* 2*d.*; To which Petition of the said John, Robert, and William, the said James and Philip do acknowledge that they are indebted to the Petitioners in several sums of money amounting in all to near 1,500*l.* It is therefore ordered this day by the House, that the Committee, who have been appointed to consider of the matter, shall repair to the House of Lords and pray their Lordships to proceed to give Judgment for the said several parties on the said several bonds, and for the damages since the said money should have been paid; And whereas several other Petitions are now in this House in like nature against the said Ja. and Philip Watson, and for that the said John Bysse, Robert Bysse and William Ball had priority of suit in Chancery before any petition exhibited unto this House, except that of Brett, The said Committee is therefore to pray their Lordships to proceed to judgment in the said John, Robert, and William their cause before any Petitioner, except the petition of the said Thomas Brett, Merchant, Saving always the rights and privileges of the House, and to have such execution as the parties shall desire, and before any other except that of the said Brett. *Signed and certified* by Tho. Tilson, Cler. Parl. Dom. Com."

No. 29.

(30.) Extract from same, * *signed and certified* as preceeding, and relating to ease of White v. Watson as follows:—

"17 July 1641. Whereas Nicholas White, of Dublin, Esq., has exhibited his Petition into this House against James and Philip Watson, thereby demanding 630*l.* sterling, which said sum is part of the legacies and portions of the children of Sir Franeis Blundell, Knt. and Bart., deceased; the which money was as appeareth by the bond of the said James and Philip, produced in this House and payable in manner following, viz., to the said Nicholas White by bond dated the 11th of December 1640, payable the last of June 1641, the said sum of 630*l.*; to which Petition of the said Nicholas White the said James and Philip do acknowledge that they are indebted to the Petitioner in the said sum of 630*l.*; It is therefore this day Ordered by the

* Not recorded in printed Journal.

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House, that the Committee, who have been appointed to consider of the matter, shall repair to the House of the Lords, and pray their Lordships to proceed to give Judgment for the said Nicholas White on the said bond, and for the damages since the said money should have been paid; the same to be levied of the goods and lands of the said James and Philip, or either of them. And whereas several other Petitions are now in this House of like nature against the said James and Philip Watson, and that the Petition of the said Nicholas White hath been exhibited the said day that the Petition of John Bysse and others was exhibited, the said Committee is further to pray their Lordships to proceed to judgment in the said Nicholas White his cause before any, except the Petition of Thomas Brett, merchant, and the said John Bysse, Robert Bysse and William Ball, saving always the rights and privileges of this House, and to give order for such execution thereupon, as the party shall require, before any other, except the said Brett, both the said Bysses, and Ball." No. 30.

(31.) Copy of *Certiorari*, in case of E. Roscommon and others, viz.:—

" Carolus Secundus, Dei gratiâ Angliæ, Scotiæ, Franciæ et Hiberniæ Rex, Fidei Defensor, &c., predilecto et fideli Consiliario nostro Jacobo, Domino Baron Barry de Santry, Capitali Justiciario nostro ad Placita, coram nobis in Hiberniâ tenend., assignat, et dilectis et fidelibus nostris sociis suis Justiciariis nostris ejusdem Curiae, Salutem. Volentes eertis de causis certiorari de et super tenorẽm quarundam Presentationum coram vobis vel aliquibus vestrũm de predilectis consanguineis nostris Wentworth, Comiti Rosecommon, Marco, Domino Vic. Dunggannon, et Francisco, Domino Anngier et omnibus aliis Par. membris Dom. nostræ superior. Parliamenti nostri nunc tent. apud Chichester House, Dublin, in casu de neusan. una eum omnibus Process. superinde habit., vobis mandamus quod tenor. presentation[is] prædict[æ], cum omnibus et singulis Process., superinde habitis, vel eas tangen[tibus], nobis sub sigillo vestro in Dom[um] nostram superior[em] Parliamenti nostri apud Chichester House, Dublin, prædict. tent. distincte et aperte in die Mercurii proxim. futur. mittatis, una eum hoc brevi. Test. predilect. et per qu. fidel. consanguin. et Consiliar. nostro Jacobo, Duci Ormond, locum tenend. nostro general. et general. Gubernator. nostro regni nostri Hiberniæ apud Dublin, decimo sexto die Decembris, Anno regni nostri decimo Septimo.

Carleton & Exham."

Signed and certified by Gerard Bor, Cler. Parliamentor.
Sworn as a true copy by Rich. Vincent, 3 Feb. 1697, R. Pyne.
Endorsed No. 31. This relates to 18.

(32.) Extract from Irish Commons' Journal, *signed and certified* as above, relating to case of Lady Talbot v. Powell, vizt., "6 July 1641.* Upon report made to the House of the Lords by the Committee of this House of the Conference had yesterday with the Committee of the Lords in the Cause of the Lady Talbot—That their Lordships' pleasure was to know the sense of this House, whether the Defendant William Powell, Clerk,

* Not found in Printed Journal in Library, which is defective.

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should in an equitable way be admitted to amend his Answer. Upon consideration thereof had, and of the whole Cause as it stood in this House, which was as followeth (viz^t.) the said Lady Talbot petitioned this House that she being legally and for many years yet in possession of vicarage of Larragh Bryen in the county of Kildare, the said Powell obtained the possession thereof upon a paper Petition referred to the Lord Bishop of Derry, and an extra-judicial order at the Council Chamber, which manner of proceedings was confessed by the Defendant in his Answer, and only denied any legal estate to be in the Plaintiff and pleaded to the right; Whereupon the whole Cause was referred to the Committee of Grievances, who heard the Cause, and upon hearing thereof it plainly appeared that the said Lady was in possession for many years, and that she had a legal estate in the premises, and was put out of possession in manner aforesaid: And report being thereof made to this House, the said Order and Decree and whole proceedings upon the said paper Petition were voted to be void, as contrary to the laws and statute of the Realm, and is a grievance voted in both Houses; It is therefore this day Ordered, that the undernamed Committee shall repair to the Lords' House, and desire a conference with their Lordships concerning the said Cause, and upon the said Conference to express the sense and opinion of the House that the said Answer cannot be amended by any precedent of law or equity, and to demand judgment according to the vote of this House, always saving the rights and privileges of this House.

Mr. Roger Brereton.

Mr. John Taylor.

Mr. Pat. Darcy.

Mr. Adam Cusack.

Mr. Recorder of Dublin.

Mr. Math. Derenzy.

Mr. Recorder of Drogheda.

Mr. Doctor Cooke.

Mr. Solicitor General.

Mr. Wm. Parsons.

Mr. Garrett Cheevers.

Sir Robert Travers.

Mr. Patr. Boyton.

Sir Richard Osborne.

Mr. Bryan O'Neale.

Sir Lucas Dillon.

Signed Copia Vera. Exam. per Tho. Tilson, Cler. Parl. Dom. Com. *Endorsed* "Order declaring proceeding at Council Board void. A Committee to attend the House of Lords and demand judgment according to the vote." No. 32.

(33.) Copy Record of Judgment in King's Bench in case of Parkes et Ux. v. O'Hara. *Signed*: Copia Vera. Gerard Bor., Cler. Parliamentor. *Sworn* to by Rich. Vincent, 3rd Feb. 1697, before Rich. Pyne. *Endorsed* "No. 33. This record relates to No. 17."

(34.) Extract from Irish Lords' Journal of 24 May 1661, *signed and certified* as above, relating to Courts of Justice. Begins ("The Lord Bishop of Clogher reports"). Ends ("at the Custom house"). L. J. (Irish), I. 238-9. *In extenso*. *Endorsed* "An Order concerning the Courts of Justice and about adjourning the Term. Fo. 8." No. 34.

(35.) Extract from same of 30 May 1661, similarly *signed and certified*, relating to Petitions against the Court of Claims. Begins ("Ordered, that the answer"). Ends ("deny the complainant right"). L. J. (Irish), I. 243. *In extenso*. *Endorsed* "The House of Lords answer to the House of Commons about hearing petitions against the Commissioners of Court of

- “ Claims, in which the Lords declared they will be cautious, but
 “ cannot refuse to hear complaint. Fo. 13.” No. 35. 1697-8.
- (36.) Extract from same of 7 June 1662, similarly *signed and certified*, relating to lands designed for the 1649 men by the King’s Declaration. L. J. (Irish), I. 309. *In extenso. Endorsed* “ The 1649 Officers to be continued in their possessions within the
 “ mile line and the Sheriffs to quiet them—A General Order.
 “ Fo. 85.” No. 36. — No. 1195.
- (37.) Extract from same of 29 Oct. 1695, similarly *signed and certified*, relating to case of E. Meath v. L. Ward. Begins (“ This Cause upon the Appeal ”). Ends (“ lost the possession thereof ”). L. J. (Irish), I. 548. *In extenso. Endorsed* “ On
 “ hearing the Appeal, the dismissal given in Tipperary reversed
 “ and decree for Petitioner.”
- (38.) Extract from same of 29 Oct. 1695, similarly *signed and certified*, relating to case of Maynard v. Moore. Begins (“ This cause upon the Petition ”). Ends (“ hereby dismissed this House ”). L. J. (Irish), I. 548-9. *In extenso. Endorsed* “ Dismiss on hearing the Appeal.”
- (39.) Extracts (2) from Irish Commons’ Journal, each *signed and certified* by Tho. Tilson, Cler. Parl. Dom. Com., relating to impeachment of the Lord Chancellor, &c., viz:—

(i.) 24 May 1641. It is ordered upon Question that the Instrument entitled thus : “ To the King’s most excellent Majesty, “ Humbly sheweth unto our Sovereign Lord the King, the Lords “ Spiritual and Temporal and Commons in Parliament assembled,” having been this day three times read in this House, shall be entered among the Acts, Orders, and Ordinances of this House and be presented to his Majesty by the Committee of this House in England.

(ii.) 24 May 1641. To the King’s most Excellent Majesty, Humbly sheweth unto our Sovereign Lord the King, the Lords Spiritual and Temporal and Commons in Parliament assembled. Whereas Your Majesty’s Letters of the 28th day of April last, and your Majesty’s Pleasure therein expressed, were lately published and declared by the Right Honble. the Lords Justices unto both Houses of Parliament, concerning the impeachment of the Lord Chancellor and Lord Chief Justice of the Common Pleas of this Kingdom and others, and the said Lords and Commons, finding your Majesty’s Government and their own rights and just privileges therein concerned, have taken the said Letters and all the parts thereof into serious consideration, and thereupon the said Lords and Commons have made and entered a Declaration and Protestation in Parliament of the said rights and just privileges, lest the doubting thereof might be drawn hereafter in consequence or example upon themselves or their posterity, which in all humble assurance they are confident was no part of your Majesty’s Royal intention. And the said Lords and Commons do most humbly beseech your Majesty to be graciously pleased to be rightly informed that the Judicature in Parliament, and in all other your Majesty’s Courts of Justice in this Kingdom, is and for these 460 years past hath been guided and directed by the Common law of England and course of Parliament in that Kingdom, according to the records and precedents of England, and that, if precedents in this Kingdom were required concerning the said Judicature, it might draw into question not only the Judicature of Parliament, but likewise the

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administration of Justice in all other your Majesty's Courts of Justice within this Realm, and the fundamental laws of the lands here established for all the time aforesaid by the princely care and vast expense of treasure of your Majesty's Royal progenitors and predecessors, Kings and Queens of England and Ireland, and by the great effusion of blood of your Petitioners' ancestors in the service of the Crown. That therefore your Majesty will be graciously pleased not to give way that so high and clear a point and undeniable a truth concerning your Highness' laws and government and the rights and just liberties of your people may be left subject to dispute or debate; and the rather for that, by means of the continual intestine wars and troubles of this your Highness' Kingdom before the most happy union of the crowns in your Royal father of blessed memory, many of the Records of this Kingdom have been miscarried; divers of them were brought into England, where they yet remain; and not a few, even in man's memory, were embezzled and destroyed, through the negligent keeping thereof; and the few ancient Records which are left here were and are as yet at the command of the said Lord Chancery and Lord Chief Justice, who, even since their impeachment, had the custody of the Parliament Rolls in their private studies. And the said Lords and Commons do present their humble thanks unto your Majesty for that, in the said Letters, you were graciously pleased to express that your Majesty had no intention to prejudice the rights of the Lords' House, and for that your Majesty was graciously pleased to send a warrant there inclosed for the naming of a new Speaker, as the said Lords Justices declared to both the said Houses, and do humbly offer unto your most Excellent Majesty whether your Majesty hold it fit that the said persons, impeached of high treason in the name of all the Commons of this Realm, shall exercise their public employments and places of judicature or trust under your Majesty, until they receive their trials according to the justice and course of Parliament, and that your Majesty will be pleased not to give credit or belief unto any Information against the real intentions and proceedings of the said Lords and Commons in Parliament, which have been, in the impeachments of the persons aforesaid, and in all other matters, with great moderation and temper, and shall be applied to your Majesty's profitable and lasting service, and to the general content and quiet of your people, whose liberty will strengthen your Majesty's prerogative, and your Highness' prerogative will defend their liberties, and, as in duty bound, they will pray for your Majesty. *Endorsed*: "Order and Petition to the King called an Instrument." No. 39.

1196. Jan. 10. Counter's Imprisonment for Conspiracy Act.—Engrossed Clause, marked A. C. J., XII. 39. *In extenso*. [Added on third reading this day. The Bill was brought from the Commons on 7 Jan. and returned with this amendment. The Commons disagreed to it, and after a Conference had taken place the Lords resolved not to insist upon it. The Bill received the Royal Assent on 14 Jan. L. J., XVI. 189, 194. 9 Will. III. c. 3 in Long Cal.]

Annexed:—

(a) 10 Jan. Lords' Amendment to the Bill, adding the Clause marked A. [Agreed to on third reading this day. L. J., XVI. 191.]

(b) 13 Jan. Commons' Reasons for disagreeing to the Lords' Amendment. C. J., XII. 43. *In extenso*. [Offered at the Conference and reported this day. L. J., XVI. 193.] 1697-8.
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1197. Jan. 15. E. Macclesfield's Divorce Act.—Amended Draft of an Act for dissolving the marriage between Charles, Earl of Macclesfield,* and Anne, his wife, and to illegitimate the children of the said Anne. The Lords' Amendments are to read ("Bitterley") for ("Beverley") to add ("Knight") after ("Salop") and to substitute two Clauses, A and B, for the last Proviso, which ran as follows:—"Provided nevertheless that neither this Act nor anything therein contained shall bar or deprive, or be construed, deemed, or taken to bar or deprive the said Anne of or from any interest, benefit, or advantage, which she, the said Anne, before the making this Act did or might claim, or was entitled unto, during the life of the said present Earl of Macclesfield or after his death, of, in, or unto the manor of Bishop's Castle in the county of Salop, with the rights, members and appurtenances thereof, or of, in, or unto any other manors, messuages, lands, tenements, or hereditaments within the said county of Salop, formerly part of the estate of the said Sir Richard Mason, deceased, so as the same interest, benefit, or advantage do not in any wise extend further than to the person of the said Anne and during her life only; nor shall this Act, or anything therein contained, bar or deprive, or be construed, deemed, or taken to bar or deprive the said Anne or the heirs of her body, if any such may be, or her heirs general, of or from any interest, benefit, or advantage, which she, they, or any of them before the making this Act may or might claim, or was or were entitled unto, after the death of the said Earl, of, in, or unto the manor of Sutton in the county of Surrey, with the rights, members and appurtenances thereof, or of, in, or unto any other manors, messuages, lands, tenements, or hereditaments within the said county of Surrey, formerly part of the estate of the said Sir Richard Mason, any law, usage, or equity to the contrary thereof in any wise notwithstanding." [Read 1^a this day. L. J., XVI. 195. On a petition of the Countess (Annex (a) below), Counsel were first heard on 20 Jan. *Mr. Serjeant Wright* (for Lady Macclesfield): We come not to speak to the Bill or to vindicate what is alleged against the lady in the Bill. He [E. Macclesfield] having begun in another Court, we hope this Bill shall not proceed further here. The Earl was regular in commencing the suit in that place. The Cause is but half heard there. There is a case of recriminating in that Court. If you proceed on this Bill, we are deprived of our defence. That Court is proper for this Cause. Your Lordships have always built on what has been done in that Court, as in the cases of M. Northampton and L. Roos. Mr. Lewknor had also a divorce in a proper Court. The Spiritual Court can go no further than a divorce. There has been no attempt against these precedents but [that of] the Duke of Norfolk, and that Bill had a judgment before this House. We hope this Bill will not proceed here until it has had the regular course in another Court. *Mr. Northey* (for Lady Macclesfield): We say no Bill of this nature had any effect till it had had the proper methods in other Courts. We say it is in the nature of the Legislature to be an aid to

* Charles Gerard, Earl of Macclesfield, styled Viscount Brandon, 1679-94. Was convicted of high treason (Rye House Plot) Nov. 1685, but released Jan. 1686-7, the attainder being reversed Nov. 1687. Succeeded to the Peerage 7 Jan. 1693-4. Married 18 June 1683 Anne (then aged about fifteen), daughter of Sir Richard Mason, of Bishop's Castle, Salop, and of Sutton, Surrey, Comptroller of the Household.

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other Courts and not to take it from them. If there was nothing in the Bill but guilty or not, your Lordships would go no further on this Bill. There the lady has the benefit of making exceptions to what may arise against her. In the Spiritual Court the lady will have the benefit of Commissions to examine witnesses, which she cannot have here. Whether my Lord cannot obtain a judgment below, or what his reason is, yet your Lordships will not be of opinion to come hither for it. Will your Lordships make an Act in aid of the law? We desire my Lady may defend herself below. He cites the E. Macclesfield's case in a Cause in the Exchequer, where their Lordships sent him thither again.* There has never been a Bill passed in Parliament of this nature, but where relief had been sought in another Court. What your Lordships do in this case we know will be your care to the meanest as well as any of your House. *Dr. Oldish* (for Lady Macclesfield): This is a case that there is no precedent for. When a sentence has been in the Ecclesiastical Courts your Lordships have gone further than that Court, as in the case of the Lord Roos and Mr. Lewknor. There has been nothing proved, as long as anything remains to be proved, nothing more than if there had been no examination at all. All we desire is the lady may be heard in her defence. *Dr. Bramston* (for Lady Macclesfield) is heard. *Sir Thomas Powys* (for E. Macclesfield): This is a case remediless anywhere but here. There have been precedents in this case. The M. Northampton's case mentioned was mistaken. This lady has declared she will give all the delay she can. *Sir Bartholomew Shore* (for E. Macclesfield) is heard. *Sir Thomas Pinfold* (for E. Macclesfield) recites the proceedings in the Ecclesiastical Courts as to the delays made by the lady. This morning she has got five witnesses and brought them in, and the question is whether the E. Macclesfield shall be delayed, when she has given all stop she can. *Dr. Waller* (for E. Macclesfield) is heard. *Mr. Serjeant Wright* and *Mr. Northey* heard in reply. *Dr. Oldish*: The Marquess of Northampton married during the proceedings in the Ecclesiastical Court, which was confirmed. I still say there is nothing proved in the Ecclesiastical Court. There was no delay but what came from themselves. He did abscond and after[wards] the Dean of Arches gave her absolution for it. *Dr. Waller* is heard. Asked what despatch this business may have in the Ecclesiastical Court, whether my Lady will or not, he answers: two or three terms. He is heard as to what the E. Macclesfield exhibited against her. Counsel and Civilians withdraw. After debate, House adjourned. MS. Min. L. J., XVI. 198.

On 21 Jan. the Order being read for E. Macclesfield's making out the allegations in the Bill, Counsel and witnesses were called in. *Sir Thomas Powys* (for E. Macclesfield) proceeded. The allegations are those as in the Bill recited. The suggestion of their living separately is not to be questioned. She has had two children born in adultery. We shall call our witnesses as to the birth of the first child. *Dinah Allsup* (sworn): In April 1695 we begin. She says: I lived with the Countess two years and a half in January 1693, or I came to her (*sic*). In April or May there came a tall gentleman and enquired for my Lady. I let the gentleman into her chamber. I retired out of the room. I let the gentleman out at the back door. In a little time after the same gentleman came. I let him in again. He stayed to 11 or 12 o'clock. I let him out of the fore door. I saw him again in the country at Mr. Brownlow's. In June 1695 my Lady was ill. She told me she had been unfortunate and was with child, and desired me

* E. Macclesfield v. Starkey (in Error) 1690.

to keep it private. I fetched Mrs. Richardson to her. She said she might go a month longer. She went to a private house in Queen Street, and that night she was delivered of a female child. None but Mrs. Richardson and I was present. The first time she spoke with Mrs. Richardson she had her mask on. When she was in labour, she covered her face, till pain made her uncover it. In the evening the child was christened by the name of Anne Savage.* I told my Lady I was fearful Mrs. Brownlow might ask to come to me. She said I need not fear she would. She removed in five or six days, and she had a swelling fell into her legs. The child was removed to Chelsea before my Lady went to the Bath. When we returned from the Bath, I went to see the child, and in five days after it died, and my Lady sent for a lock of hair. In 1696 I found my Lady was in child again. I told her I was bound in conscience to tell the Lady Mason with it. She desired I would not. She offered me money, and she gave me 20 guineas when I went away, and I was to have 5*l.* per annum. She says she is sure that person she let in was not my Lord Macclesfield. The evidence was taken in short-hand, and written by the Clerk and then read to the witness, and she signed it. *Mr. Serjeant Wright* (for Lady Macclesfield) asks a copy [of the] Deposition and time to cross-examine. Counsel withdraw. *Proposed* to allow copies of Depositions and time to cross-examine. *Ordered* as in L. J., XVI. 199. *Sarah Richardson* is sworn. Says: I was sent for to a person I did not know, I know not who fetched me. I was fetched to Queen Street. I saw a lady that appeared to me in a mask. *Mrs. Allsup* says this was the woman she fetched to Lady Macclesfield twice. MS. Min.

On 22 Jan. Counsel called in. Counsel for E. Macclesfield called *Mary Mountaine*, the nurse to the female child, who, being sworn, deposed as follows: Mrs. Pheasant came and hired me at Chelsea to take a child. I said I could not take a child for 6*s.* a week. She said "it is a person of quality's child, and the things that come from it will be better than if you had more." I came to the Old Bailey, and Mrs. Pheasant took a coach and went to the other nurse. As we came home, she said, "the mother is a Countess and the father a person of quality and in Flanders." I told the gentlewoman that came to see the child that Mr. Woolsley's sister had been to see the child. Mrs. Allsup came with her. Some time after, the child fell sick, and I sent to the Old Bailey. Mrs. Pheasant came, and next day after the lady came. I told her I was afraid the child would die. She said she would send an apothecary to make an issue in the child. Mrs. Pheasant came next day, and I told her what the lady said, and we sent for an apothecary and made an issue. The child died, and Mrs. Pheasant brought a coffin, and it was buried in the church. I was to make an Affidavit for burial. I was told I might swear the name was Anne Smith or Anne Savage, which I pleased. Mr. Woolsley paid me the first time. This was in June 1695. The 16th day I brought it home. The Christian name was Miss Anne. My husband has it in his almanack. Mrs. Dinah Allsup came for a lock of the child's hair. I saw this lady at Doctors' Commons and it was Lady Macclesfield. This witness fell sick, and so another was called. *Elizabeth Pheasant* (sworn): Asked whether in 1695 she was hired to nurse any woman.

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* Lady Macclesfield's two children were Anne Savage, who died an infant at Chelsea, and Richard Savage, born in Fox Court, Gray's Inn Lane, 16 Jan. 1696-7, whose history after 1698 is unauthentic, but with whom Richard Savage, the Poet, claimed to be identical. Their father was Richard (Savage), Earl Rivers, who died 1712. *Complete Peerage*.

1697-8. I was spoken to by Mr. Woolsley in June 1695 to look to a lady. I met her in the evening in Piccadilly. She spoke to me in a mask. —
 No. 1197. She told me her reckoning was not out till July, and I was to take care of all things. Dinah Allsup fetched a midwife the first time. Mrs. Richardson was the midwife. The lady spoke to her in a mask, and told her that her reckoning would be out in July. The second time, when in labour, I fetched Mrs. Richardson myself, the 10th or 11th of July. I went to Mrs. Richardson's house. Her maid went with me to Soho. She was delivered about three o'clock of a female child. She had a mask on most part of the time till the extremity of the pain. The child was christened about ten o'clock the same day. The name was Anne. When my Lady was in labour, she feared she should die. Mrs. Richardson said: "I hope not, but, if you do, give me your petticoat." Mrs. Richardson asked if this was her first child. She said, Yes, but she had miscarried. Mr. Newdigate Woolsley and his sister were present. Mr. Woolsley was god-father, and Mrs. Doro[thy] Woolsley and myself god-mothers. She stayed there about six days, and then went away in a chair to Charing Cross. I went back, and stayed there seven or eight days to wash the lady's linen, for fear it should be seen. The child was put to nurse in Walthamstead [Walthamstow]. Mr. Woolsley provided the nurse, and I had the care of all. *Sir Thomas Powys* heard. He says the short-hand writer takes the heads and not the substance of what is said. *Mr. Serjeant Wright* says the shorthand writer cannot dictate to the Clerk. *Proposed* that there be two shorthand writers, and to adjourn to Monday. *Agreed*, that the Clerk to take the evidence. *Agreed* that the shorthand writer proceed to copy his short-hand. Counsel were called in again, and told they should proceed, and the Clerk was within the Bar. *Sir Thomas Powys* calls *William Rome*, who, being sworn, says: I was curate of St. James', Westminster. I was called for by a gentleman to baptise a child on the 11th day of July. *Mrs. Elizabeth Stileman*, sworn. This woman comes to confirm much of what Mrs. Pheasant said. *Counsel* for the Countess desired they might cross-examine Mrs. Stileman presently: She being big with child may not be had at another time. *Asked* who Mrs. Cooper it was that offered her money, says: She lives in Vine Street, or did live there, at the lower end of Tuttle [Tothill] Street. Her husband, I think, was an officer under King James. If you ask for Capt. Cooper, everyone knows him. She says the lady's solicitor came to her or her house. *Ordered*, that Mrs. Cooper attend on Monday next. *Mary Peglear* (sworn) was heard and signed her evidence. *Lady Charlotte Orby* (sworn): About November 1696 my brother sent to desire me to come to him at my Lady Brownlow's house. When I came there ———. *Proposed* that Mrs. Fairfax hear read what this lady says, and if she agrees to it she need not be examined further. *Mrs. Charlotte Fairfax* (sworn): Hears the Deposition read. Says she remembers this. *Sarah Redhead* sworn. Counsel withdraw. *Proposed* that the transcribing the Depositions of Mrs. Pheasant be made no use of, but delivered to E. Macclesfield, who burned them. MS. Min. L. J., XVI. 200.

On 24 Jan. *Agreed* to have two shorthand writers, and that when the evidence of one witness is taken, the shorthand writer dictate to one clerk, while the other shorthand writer takes the other. Counsel and witnesses are called in for E. Macclesfield and Counsel for the Countess. *John Mountaine* (sworn) says the entry in his almanack was made two or three days after the child came to nurse, and also the entry of moneys received for nursing the child. *Mary Mountaine*

(sworn before): Mrs. Pheasant came and hired me for a nurse, as I said the other day, but being sick I was not heard through. *Elizabeth Pheasant* (sworn): Declares her knowledge of the whole matter. *Elizabeth Wright*, midwife (sworn): Declares her knowledge relating to this matter. *Isaac Burbridge* (sworn): Declares his knowledge concerning christening the child. I christened the child by the name of Richard. *John Smith*, sexton (sworn): I went with Mr. Burbridge to Fox Court, into a room [up] one pair of stairs. The child was brought to us. I set down the name of the child. The child was named Richard. The parents' names, they told me, were John and Mary Smith. I wrote in this paper 18 January 1696. *Ordered* that Mrs. Margaret Wallis and Maria Weston attend on Saturday next. *Sarah Redhead* (sworn): Gives account of her having been hired to wait on a lady. A gentlewoman, Mrs. Smith, came to lodge with Mrs. Leigh. *John Morris* (sworn): Gives account in what manner and how Mrs. Pheasant was taken. She was taken in Northamptonshire in July. Mrs. Woolsley was with her. I found her beyond Towcester in Northamptonshire. *Thomas Bezeley* (sworn): I endeavoured to serve Portlock, a baker, and his wife, but could not find him. A girl said his wife was at home. *Agreed* to seal up the evidence, which was done. MS. Min. L. J., XVI. 201.

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On 25 Jan. Counsel and witnesses called in on behalf of the Earl, and Counsel for the Countess. *Elizabeth Cooper* (sworn): Gives an account of Mrs. Stileman, and when she saw her. *Lucy Armstrong* (sworn): Gives account of her knowledge of this matter relating to Lady Macclesfield. Counsel for E. Macclesfield say they have no more witnesses as to the allegations of the Bill, but if they bring witnesses to discredit theirs, they desire other witnesses may be heard to support those examined. *Mr. Serjeant Wright* desires copies and time to answer them. We have a witness in Brecknockshire, James Donne, I think. [I desire] that he may have the protection of this House in going and coming. *Mr. Northey* heard also as to time. *Sir Thomas Powys* and *Sir Bartholomew Shore* heard against allowing time. Counsel withdraw. *Moved* to call in some person to swear that Mr. Donne is a material witness for the Countess of Macclesfield. Counsel called in and asked whether they have one to swear Donne is a material witness. They withdraw. *Proposed* to allow time for an Affidavit to be made that Donne is a material witness. *Memo-randum* [by Clerk]: That I figured the examinations, and they were 18 papers. MS. Min. L. J., XVI. 201.

On 26 Jan. *Mr. Dighton* is called in and asked what he has to say as to an Affidavit for a witness. He says he has an Affidavit, which is delivered and read, and signed by Lady Macclesfield. *Mr. Dighton* is called in and told that, what time the Lords appoint for this witness, they will expect all [to be] ready. He says this is the remotest witness. Here follow the two Orders as in L. J., XVI. 202. MS. Min.

7 Feb. Order for Countess's witnesses to attend. L. J., XVI. 208. Nothing in MS. Min.

On 9 Feb. Counsel and witnesses called in, pursuant to Order of 26 Jan. last. *Mr. Serjeant Wright* (for Lady Macclesfield) is heard against the Bill. We admit she has lived separate from her husband, and we will call witnesses to this. Lady [Macclesfield] was married in 1683. *Mr. Northey* (for Lady Macclesfield) is heard. Then they call witnesses. They propose that an interpreter be allowed, one of the witnesses being a French-woman. Allowed to have a shorthand writer and the table as before. *Henriette Guichardière*

1697-8. sworn. Counsel withdrew.* . . . Counsel called in again. *Mrs. Guichardièrè* heard through, and then dictated what she had said to the Clerk, who read the same in her presence and she signed it. A letter of E. Macclesfield was read, written to the lady in 1684 (Annex (f)). Counsel move that they may cross-examine this witness; which was granted, and the Counsel for E. Macclesfield cross-examined her, and she answered. *Mrs. Sarah Goodall* (sworn) was heard and answered several questions, and then her Deposition was read to her, and she signed it. Then she was cross-examined by E. Macclesfield's Counsel and heard. Counsel withdrew. *Ordered*, that no other Order be allowed for witnesses for Lady Macclesfield, unless to support Mrs. Goodall's credit. MS. Min. L. J., XVI. 209.

On 16 Feb. Counsel and witnesses called in on behalf of the Countess. *James Donne* (sworn) was heard as to his knowledge of what he knows as to the usage of Lady Macclesfield; which, he having declared at the Bar, was taken in shorthand and then transcribed and read to him, and he signed it. *Peter Berry* (sworn) was heard as before, and signed his Deposition. They propose to read a copy of a letter, to which the Counsel for E. Macclesfield agreed, and the letter copy was read. A letter of Dr. Tillotson read. *Edward Smyth* (sworn) delivers his knowledge concerning Lady Macclesfield's behaviour to the Earl. *Mr. George Smyth* (sworn) gives account of his knowledge concerning Lady Macclesfield's behaviour to her husband. They move that the E. Scarbrough and E. Scarsdale be heard as to this matter. *E. Scarsdale* is heard as to his knowledge concerning this matter. E. Macclesfield owns he [she] came to him in the Tower. This, says the Counsel, [they] offer to show my Lady's kindness to my Lord. Counsel for Lady Macclesfield heard as to the evidence given against her, and what this Dinah Allsup is. She threatened to be revenged of my Lady for refusing her her service. The Order of 9 Feb. 1697-8 read, that no Order for witnesses be allowed except to support Mrs. Goodall's credit. We have a witness here to be examined, who was not summoned, against Dinah Allsup's credit. *Margaret Davis* (sworn), gives account wherein she knows Dinah Allsup. She was dairy-maid to my Lady, &c. She was much disturbed that my Lady did not make her her woman. *Moved* for an Order to bring in Lady Macclesfield's deed of settlement upon her marriage, which is in the hands of Mr. Eure's Executors, of Lincoln's Inn. A Petition of Lady Macclesfield (Annex (d) below) was read by the Counsel, praying witnesses to be examined as to the proving the Earl's adultery. We further desire to have leave to examine witnesses to support Mrs. Goodall's credit. *Sir Thomas Powys*: We desire to be heard as to Lady Macclesfield's Petition. Counsel withdraw. *Ordered* as in L. J., XVI. 212. MS. Min.

On 18 Feb. Mrs. Mountaine, William Banastre, and Henriette Guichardièrè were sworn on behalf of the Countess, to prove the credit of Mrs. Goodall. Mary Wethersby, Margaret Stephenson and Richard Whitworth sworn, on behalf of the Earl, to prove my Lord's kindness and good usage to his Lady. William Buckingham also sworn. *Ordered* that both sides may have copies of the letters and Depositions. MS. Min. L. J., XVI. 213.

On 23 Feb. Counsel are called in and heard to sum up what has been offered for and against the Bill. *Sir Thomas Powys* heard for the Bill. *Mr. Serjeant Wright* and *Mr. Northey* heard against the Bill. *Sir Bartholomew Shore* heard for the Bill. Counsel withdraw.

* The proceedings were here interrupted, to enable E. Burlington to take his seat.

Ordered that the Depositions taken be read to-morrow, before the second reading of the Bill. MS. Min. L. J., XVI. 217, 218. 1697-8.

On 24 Feb. The Depositions read, *i.e.*, 18 for E. Macclesfield and 13 for the Countess [including E. Macclesfield's letter]. Bill read 2^a and committed to C. W. H. MS. Min. L. J., XVI. 217. No. 1197.

On 26 Feb. House in Committee on the Bill. E. Bridgewater in the Chair. Title read and agreed to. Preamble read and postponed. 1st Enacting Clause read and agreed. 2nd Enacting Clause, to give him leave to marry again, read and agreed. 3rd Clause, for illegitimizing the children, read and agreed to. 4th Clause, concerning the manors and honours of the Earl to stand as if no children born, agreed to. Proviso read concerning limitations and appointments of E. Macclesfield, deceased, postponed. The next Proviso read. A Petition of Fitton Gerard brought in (Annex (i) below). House resumed. The Petition read, and referred to C. W. H. House again in Committee. The Petition read. *Agreed* to hear Mr. Gerard on Tuesday next. Report and Order as in L. J., XVI. 220. MS. Min.

On 28 Feb. Petition of the Countess read (Annex (j) below). *Ordered* to be heard by her Counsel to-morrow. MS. Min. L. J., XVI. 221.

On 1 March. House again in Committee on the Bill. E. Bridgewater in the Chair. Counsel called in. Petition of Mr. Fitton Gerard read. *Mr. Attwood* heard for Petitioner. The Deeds will show Mr. Gerard is in the remainder. *Mr. Serjeant Wright*: We agree Mr. Fitton is in the remainder. He is not entitled to any recompense, for he is out of the consideration on the marriage agreement. He cannot expect any benefit by this marriage. His estate is eased of the rent-charge. *Mr. Northey*: Mr. Gerard is a man in this case that the law knows no value for. Counsel withdraw. The Committee go into debate upon the last Clause of the Bill where they left off. It is declared that the E. Macclesfield leaves the disposition of her estate to the sole consideration of the House. *Proposed* to withdraw Mr. Fitton Gerard's Petition. *Agreed* that the Judges draw a Clause with the Counsel on either side, pursuant to the debate. House resumed. Report as in L. J., XVI. 222. Then, after transacting some other business, House again in Committee. Clause drawn by the Judges read and agreed to, for indemnifying the E. Macclesfield against the Lady's debts. *Agreed* that the Judges adapt the Clauses to the debate, and have the writings in the Clerk's hands and also the Bill. House resumed. Report and Order as in L. J., XVI. 222. MS. Min.

On 2 March. House again in Committee. E. Bridgewater in the Chair. The Judges deliver the Clauses drawn by them pursuant to the debate in the Committee yesterday, which are read and agreed to. The postponed Clause in the Bill is read.

Sheet 8, line 7. For ("Beverley") read ("Bitterley").

„ „ 8. After ("Salop") add ("Knight").

The Clause agreed to. The last Clause read.

Sheet 9, line 1. Leave out from ("provided") inclusive, to the end of the Bill, and add the Clauses marked A and B.

The postponed preamble agreed to. Title read and agreed to. House resumed. Bill reported with amendments. Report agreed to, and Bill ordered to be engrossed. MS. Min. L. J., XVI. 223.

The Bill received the Royal Assent on 2 April 1698. *Ib.* 256. 10 W. III. c. 23 in Long Cal.

Annexed:—

(a) 18 Jan. 1697-8 Petition of Anne, Countess of Macclesfield. The Bill suggests the same matters as were alleged by the Earl

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in his suit for a Divorce in the Court of Arches, which is still pending. Prays to be heard by Counsel, both Civilians and Common Lawyers, against the Bill. L.J., XVI. 197. *Endorsed* as read this day and ordered to be heard on Thursday next.

- (b) 20 Jan. Petition of same. Several of Petitioner's witnesses live at a distance from town, whereas those of the Earl are about his own house and near London. Prays for further time to make her defence. *Endorsed* as read this day, nothing done on it. MS. Min. No entry in L. J.
- (c) 26 Jan. Affidavit of same that Mr. James Donne, living near the Hay, in Brecknockshire, is a material witness for Deponent. *Sworn* 25 Jan. before Rich. Holford. *Endorsed* as read this day. L. J., XVI. 202.
- (d) 14 Feb. Petition of same for another day for the further examination of witnesses, Petitioner's Counsel being both retained in other Causes on the day now appointed. *Endorsed* as read this day. L. J., XVI. 211.
- (e) 24 Feb. Depositions (31) taken in relation to the Bill, each *signed* by Deponent (seven of the women sign by their marks) and *endorsed* as read in the House this day. L. J., XVI. 217. *See* notes above. The 18 witnesses examined on January 21, 22, 24, and 25, are for E. Macclesfield; 10 of those examined on February 9, 16 and 18 are for Lady Macclesfield.
- (e¹) 21 Jan. Dinah Allsup. Maid to Lady Macclesfield. Gives evidence as to the birth of two children. *See* notes above. No. 1.
- (e²) 21 Jan. Sarah Richardson. Midwife. As to the birth of the female child. No. 2.
- (e³) 22 Jan. William Rome, clerk. As to the christening and registering of the female child. No. 3.
- (e⁴) 22 Jan. Elizabeth Stileman. Lodging-house-keeper. Confirms evidence of Elizabeth Pheasant given this day. No. 4.
- (e⁵) 22 Jan. Elizabeth Stileman. Cross-examination. As to attempt to get witnesses to invalidate Mrs. Pheasant's evidence. No. 5.
- (e⁶) 22 Jan. Mary Peglear. As to nursing the male child. No. 6.
- (e⁷) 22 Jan. Lady Charlotte Orby. (Her evidence is affirmed by Charlotte Fairfax). As to endeavour of E. Macclesfield to satisfy himself about Lady Macclesfield's condition. No. 7.
- (e⁸) 24 Jan. John Mountaine. As to entry in his almanack of his wife taking a nurse-child. No. 8.
- (e⁹) 24 Jan. Mary Mountaine. Nurse. As to taking the female child to nurse, and its death. No. 9.
- (e¹⁰) 24 Jan. Elizabeth Pheasant. As to the birth of the female child, its being put out to nurse with Mrs. Mountaine and its death. As to the birth of the male child, its being christened and taken away. As to enquiries by Lord Macclesfield, and witness being arrested in Northamptonshire. No. 10.
- (e¹¹) 24 Jan. Elizabeth Wright. Midwife. As to the birth of the male child and its having a caul over its face, which she told the mother was a sign of good fortune. No. 11.
- (e¹²) 24 Jan. Isaac Burbridge, clerk. As to christening a male child in Fox Court. No. 12.
- (e¹³) 24 Jan. John Smith. Sexton. Confirms Burbridge as to the christening. No. 13.
- (e¹⁴) 24 Jan. Sarah Redhead. Maid. Gives account of her being hired as maid and of the birth of the male child. No. 14.
- (e¹⁵) 24 Jan. John Morris. As to apprehension of Mrs. Pheasant. No. 15.

- (*e*¹⁶) 24 Jan. Thomas Bezeley. As to his endeavour to serve Portlock, a baker, with an Order to attend. No. 16. 1697-8.
- (*e*¹⁷) 25 Jan. Elizabeth Cooper. Confirms Mrs. Stileman as to attempt to discredit Mrs. Pheasant's evidence. No. 17. —
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- (*e*¹⁸) 25 Jan. Lucy Armstrong. As to attempt to discredit E. Macclesfield's witnesses. No. 18.
- (*e*¹⁹) 9 Feb. Henriette Guichardière. Maid to Lady Macclesfield. As to E. Macclesfield's behaviour to his wife and her being turned out of Gerard House. No. 1.
- (*e*²⁰) 9 Feb. Sarah Goodall. As to E. Macclesfield's treatment of his wife and sister at Gerard House. No. 2.
- (*e*²¹) 16 Feb. James Donne. As to E. Macclesfield's treatment of his wife and as to witness waiting on the late E. Macclesfield to know whether he would take Lady Brandon (as she was then) back into Gerard House. No. 4.
- (*e*²²) 16 Feb. Edward Smyth. As to Lady Macclesfield's behaviour to her husband and her application on his behalf when he was in the Tower. No. 5.
- (*e*²³) 16 Feb. George Smyth. As to the same. No. 6.
- (*e*²⁴) 16 Feb. Margaret Davis. Servant to Lady Brownlow. As to Dinah Allsup's complaints of Lady Macclesfield and quarrel with the footman. No. 7.
- (*e*²⁵) 16 Feb. Peter Berry. Corroborates Mr. Donne's evidence and describes his taking to E. Macclesfield at Lancaster a letter from his wife. No. 8.
- (*e*²⁶) 18 Feb. Olive Mounteney and William Banastre. As to character of Sarah Goodall. Henriette Guichardière. As to Sarah Goodall being at Gerard House. No. 9.
- (*e*²⁷) 18 Feb. Mary Wethersby. Maid to Lady Gerard's daughter. As to E. Macclesfield's treatment of Lady Macclesfield. No. 10.
- (*e*²⁸) 18 Feb. Margery Stinson. [Margaret Stephenson]. Kitchen-maid at Gerard House. As to same (on behalf of E. Macclesfield). No. 11.
- (*e*²⁹) 18 Feb. Richard Whitworth (also on behalf of E. Macclesfield). Steward to the late E. Macclesfield. As to any complaints by Lady Macclesfield of ill-treatment by him. As to payment of her pin money of 300*l*. No. 12.
- (*e*³⁰) 18 Feb. William Buckingham (also on behalf of E. Macclesfield). As to Lady Macclesfield's treatment at Gerard House. Her behaviour when E. Macclesfield was sent to the Tower. His own application to E. Macclesfield to admit Lady Macclesfield. No. 13.
- (*f*) Letter from Lord Brandon to his wife, as follows:—

"Madam,

"You have more reason to wonder at my forbearing so long to express the resentment of your behaviour to me, than to be surprised that I now resolve to ease both you and myself of so unpleasing a conversation. Your youth and folly did long plead your excuse, but when I saw ill nature in you and ill will (not to say malice) in your mother join against me, I then had reason to despair of your amendment. I had rather refer myself to your own memory for the particulars, and to your conscience for the truth of them, than be troubled with the repeating them; and you may imagine I take little pleasure in doing it, when, at the same time, the world must know my misfortunes in being disappointed of all the content I hoped for in the state of marriage, and found neither a faithful nor a cheerful companion (as a good wife ought to be) in either fortune. When I first

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offered myself to your father and mother by Mr. Charlton, it was upon no other consideration but that I preferred you before any other, expecting all happiness from you and your family, and not to make a prey of you, as you have often upbraided me withal, and that I had no such mercenary thoughts Mr. Charlton, who is a man of honour, can justify me, and that I refused to hear of any other match on your account. Many affronts I received in the treaty, and many more since; so far have either you or your relations seemed pleased with it, that they have seemed to think themselves injured and disparaged by the alliance, your mother showing her contempt by writing one of the unmannerly letters to me, and sending back the pitiful jewels, as if they were the worse for wearing, and you showing your distrust of me, when you desired that your father might pay the 300*l.* per annum, which how duly I have paid your acquittances will show. These things I could easily pass over, but you would have the world believe I have used you ill, and that I have beaten you, a thing so base that, as you know it to be false yourself, so you will never be able to persuade the world that it is true. I have governed my passions under great and frequent provocation, either by silence or by avoiding your company. What satisfaction I was to expect let mankind judge by these particulars:—When you were at my Lady Bludworth's you declared you could not endure the thought of living with me, and that you had written to your mother about it, and you hoped she would not be against your parting with me, and when she answered you that a woman must not part with her husband for two or three angry words, you said that now you found your mother hated you, since she was against a thing so much for your content and happiness, for you could never have any with me. Really I might very easily have found it at first, when I made love to you, for I never asked you a question that I could ever get an answer to; but I was then deluded, and was told it was your modesty; but since I have not found it, when to my face you said you only married me to make yourself more easy than you were at home, at which place you have sufficiently railed, and I did imagine I should follow when there was no good word for a father and a mother. And still you resolved you would not live with me, and said, to bring it about, you would say several provoking things to me, on purpose to make me strike you, for it was the thing in the world you wished I would do, but if you could not bring it about, that there was 300*l.* a year I could not hinder you of, and that you would go and live with your mother, though the lodgings at Whitehall would be inconvenient, but, however, you would go there, because I could have no power to take you from thence; which you needed not to fear; and when you did speak several provoking things to me, I told you that I would acquaint your father and mother with your behaviour to me, for I could not bear it, nor did I believe they would countenance you in things of this nature. Your answer was, let me make what complaints I would, you would deny every word, and that you were sure they would credit you sooner than me. You have often-times spoken with scorn and contempt of me and my family to my face, and expressed that you did not care to have any children by me, but always pretended yourself with child whenever I went out of town from you; your design in it I cannot imagine. That you have very confidently twice asked to part with me, and at the same time

told me, if I was a man of honour, sure I would give you your 12,000*l.* back again, but, Madam, I have had but two as yet, and a 250*l.*, the rest has been on your allowance, which last sum my very coach-horses has stood me in as much, though you scorn to use them, though reported as if you could never have the coach, but 'twas never refused but twice, I having lent it once, and you came and demanded it (*illegible*) at another time when you heard me lend it to my sister at dinner; but this is but like the rest of your malice to make me appear infamous, if it was in your power, and in sitting in an outer room to entertain company by a coal fire, as if I refused you wood. When I first proposed going into the country, you said you did not know whether you should or no, a very obedient answer; but, being better advised since, I suppose, you have since said you would bear living with me a little longer, not out of love to me, but out of consideration and kindness to your sister, by reason that, if you now parted with me, it might do her prejudice to her marriage. This is the first good-natured action I knew you capable of, for she really deserves everybody's love, and you said if you went into the country your father intended to come down to see if all things were settled as they ought to be, but if he did not find it to his mind and yours, and if I offered to come to town without you, he would take you home to him. And now, Madam, I am resolved to give you the satisfaction you have often asked, in parting with me, which you may have cause to repent at leisure, and will shew myself the man of honour you speak of, in referring it to your own relations and mine what is reasonable to allow you; and my satisfaction will be, that neither myself nor any of my relations have been the occasion of it, for never woman came into a family more disposed to love you, if you had by any tolerable behaviour deserved it. But I still think myself obliged, being separated from me, you may have a regard to your own honour, and govern yourself by discreeter counsellors than those who have brought these misfortunes upon yourself and me.

I am yours,
C. BRANDON.

"This show to Sir Richard and my Lady, for I will never live with you as long as I live."

- (*f*¹) Cover of preceding, *endorsed* "The Letter of the Lord Brandon to his Lady. Left for her Ladyship when he went into the country, March 2 1684."
- (*g*) Cover addressed "These for my Lady Brandon."
- (*h*) Cover addressed "To Mr. Dighton." *Endorsed* as received 9 Feb. 1697, and numbered 3 *bis*.
- (*i*) 26 Feb. Petition of Fitton Gerard, Esq., brother of the Earl of Macclesfield. Notwithstanding that the Bill makes due provision for the remainder to which Petitioner is entitled after the death of the Earl without issue, attempts are made to have the settlement broken and Petitioner deprived of his right for the sake of an adulteress. Prays to be heard by Counsel before any alteration shall be made in the settlement. *Endorsed* as read this day in the House and C. W. H. L. J., XVI. 220.
- (*j*) 28 Feb. Petition of Anne, Countess of Macclesfield, to be heard by Counsel in opposition to Mr. Fitton Gerard. *Endorsed* as read this day. L. J., XVI. 221.

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(k) 2 March 1697-8. Draft Clause and Proviso marked A. Begins ("And whereas by the said Quinquartite Indenture") and ends ("as if she had never been married"). *Noted* as agreed to this day. L. J., XVI. 223.

1198. Jan. 17. Browne v. Bradford.—Petition and Appeal of Humphrey Browne. One Willoughby Pond, with Leonard Upsall and his son, became bound to Petitioner in Nov. 1670 in a bond for 100*l.*, the interest on which was paid by Upsall the son during his life, and afterwards by one Tym, his executor, till 16 Nov. 1686, when, on his refusing to pay any more, Petitioner sued him, and on his pleading *plene administravit* brought his action against Respondent, as Pond's executor, to recover the debt. Respondent in 1679 paid Petitioner about 107*l.* upon another and separate bond for 100*l.*, entered into by Pond and Upsall the father, and dated 7 July 1671, which last-named bond was accordingly delivered up. Respondent, who denied the existence of two bonds, brought a Bill against Petitioner for a discovery, and after two trials, a new trial was directed by the Court of Chancery on the issue whether there were two bonds, and whether they were both satisfied. A jury at Nottingham Assizes found a verdict against Petitioner, and the Court of Chancery on 15 June 8 Will. III. decreed that Petitioner should deliver up the bond of Nov. 1670, with 160*l.* costs to Respondent. Appeals from this decree and prays that Respondent may be ordered to answer. *Signed* by Appellant. *Countersigned* Edw. Brydges, Juno. Rayner. L. J., XVI. 196. [At the Hearing on 2 March *Sir Bartholomew Shore* opens the case for Appellant. We say there were two bonds and but one satisfied. *Mr. Brydges*: We desire a new trial whether two bonds and but one satisfied. *Mr. Serjt Wright* (for Respondent) Here has been two verdicts against them and a decree founded thereupon. The jurors have had all things before them and have found three times against Browne. *Sir Thomas Powys* (on the same side) We hope this usurer shall not go off without good costs.

They read Depositions wherein it is shown he would not deliver up the bond. The Order on hearing admitted and the issues and verdict accordingly. Appeal dismissed. MS. Min. L. J., XVI. 223.]

Annexed:—

(a) Minutes of proceedings on motion to Court of Chancery on 31 Oct. 1695 for a new trial on behalf of Appellant. [Appended to preceding.]

(b) 9 Feb. 1697. Petition of Respondent for further time to answer, he being 80 years of age and very infirm, and living in Nottinghamshire. *Endorsed* as read this day. Ordered a week's time. L. J., XVI. 209.

(c) 16 Feb. 1697. Answer of Richard Bradford. Respondent, as Pond's executor, paid the sum due on the bond entered into by Pond and the two Upsalls and took his receipt, the Appellant then not having the bond to deliver up, as he pretended, but acknowledging that he had no other money due to him from Pond. Recites the proceedings below. The decree of 15 June 1696 complained of is just and equitable. Prays that the Appeal may be dismissed with costs. *Signed* by Respondent. *Countersigned* Tho. Powys. *Endorsed* as brought in this day. MS. Min.

1199. Jan 17.—Leighton's Bill. Draft of an Act for the relief of Baldwin Leighton, Esq., in relation to the office of Warden of the Fleet. Wherease by an Inquisition duly taken the twenty-ninth day of March in the second year of his Majesty's and his late Royal

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Consort's reign, by virtue of a Commission in that behalf issued under the Great Seal of England, it was found that Richard Manlove, Esquire, then Warden of the Prison of the Fleet, in the said Inquisition mentioned, and his Deputy had committed diverse great offences and misdemeanours in the execution of that office, whereby the same became forfeited and in their Majesty's dispose; And whereas some time after the taking of the said Inquisition their Majesties were graciously pleased to grant the said office, with the fees and profits thereof, unto Baldwin Leighton, Esquire, during his good behaviour, which grant passed the Privy Seal the twenty-fifth day of April in the said year, and was prepared for the Great Seal, but, by reason of some undue practices and false allegations of the said Richard Manlove, the then Commissioners for the custody of the Great Seal delayed the sealing thereof, and on the twenty-fifth of June in the third year of their Majesties' reign ordered that the said Inquisition should be quashed, which was done accordingly; And, it appearing that the said Order was unduly obtained, and the vacating the said Inquisition a manifest wrong and prejudice to the said Baldwin Leighton, who has no remedy by the ordinary course of justice, and is only relievable by the aid of an Act of Parliament; May it therefore please your Excellent Majesty, at the humble request of the said Baldwin Leighton, that it may be enacted and be it enacted &c., that the said Inquisition shall be and is hereby revived, and shall be adjudged, deemed and taken to be a judgment by default of the said Richard Manlove in not traversing the said Inquisition and entering into security to prosecute by traverse within three months next after such Inquisition was duly filed upon record, according to the express meaning of the Statute made in the first year of King Henry the Eighth, entitled an Act to enlarge a Statute for the traverse of lands seized into the King's hands before Escheators; and that the said Inquisition shall be of such and the like force and effect, and be pleaded and allowed of in all Courts and places as fully and effectually to all intents and purposes, as if the same had never been quashed or made void, the said Order of the twenty-fifth of June, or any other Order or proceeding in relation to the vacating of the said Inquisition, to the contrary notwithstanding. [Read 1st this day and Mr. Leighton and any other persons to be heard this day week. L. J., XVI. 196. On 27 Jan. *Mr. Serjt Wright* was heard against the Bill and *Sir Thomas Powys* and *Sir Bartholomew Shore* in favour of it. The Judges were heard as to the quashing of the Inquisition. MS. Min. The Bill was rejected on the same day. L. J., XVI. 203.]

Annexed:—

- (a) 21 Jan. Petition of William Weedon Ford, Esq., Warden of the Fleet. The Court of Chancery, when ordering the Inquisition to be quashed, had the assistance of Chief Justices Holt and Pollexfen and Justice Nevill. The actual quashing having been respited until his Majesty's pleasure was further known, Attorney-General (now Chief Justice) Treby declared in Court that he had acquainted his Majesty and had no directions to stay it, whereupon by a subsequent Order it was duly vacated. Prays that Chief Justices Holt and Treby and Justice Nevill, together with the Registrar of the Court, may be ordered to attend at the Hearing, with the Books of Minutes and Orders. [Read this day. Ordered that Holt, L. C. J., Treby, L. C. J., and Nevill, J., do attend. L. J., XVI. 199.]

1200. Jan. 17. Suits in Law and Equity. Papers relating to the Enquiry instituted this day to consider of proper methods to restrain the great expense and length of Suits in the Courts of Law and Equity. [On 12th Jan., the House being moved to consider of the delay and

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costs in Westminster Hall, it was proposed that a day should be fixed for the House to be in Committee for that purpose, and the House appointed the 17th. MS. Min. L. J., XVI. 193. On 17 Jan. in C. W. H. the matter was referred, on motion, to a Select Committee. MS. Min. L. J., XVI. 196. The proceedings in the Select Committee are thus recorded:—

20 Jan. E. Rochester in the Chair. Upon consideration how to prevent the great expense and length of Suits, the Heads following are agreed to be considered of for a Bill: (1) That the number of Counsel be restrained in Causes pleaded in Westminster Hall. (2) That there be a convenient time limited wherein judgment shall be given after a Cause is heard, and that unnecessary rehearings of Causes be prevented. (3) That the number of Attorneys in every County be restrained, and their due qualifications described. (4) That all perquisites upon the account of hearing or judging Causes be taken away. *Ordered* that the two L. C. Justices and the L. C. Baron attend to-morrow. Com. Book.

21 Jan. E. Rochester in the Chair. The two *L. C. Justices* and the *L. C. Baron* being present, the Heads are read to them, and they desire time to consider of them. *The L. C. Justice*, K. B., says they give all possible despatch to Causes at law. *The L. C. Baron*: Rehearings are very rare in the Exchequer. They are upon matters shown. Learned Counsel always sign cause for rehearing. Short days are appointed for them. Judgments are generally at law and in the Exchequer given the same or the next day, sometimes the next term. He remembers not that they order rehearings unless desired by one of the parties. *L. C. Justice*, C. P.: There are no rehearings with us. This concerns the Chancery chiefly. There has been restraint of Attorneys by ancient Statutes. It deserves to be considered. The Judges withdraw. Head 4 is postponed. The Judges are called in and directed to consider whether any regulation of the number of Counsel may be convenient, and, if convenient, then to what number they may be restrained; also to consider how the number of Attorneys in every County may be restrained, and how their due qualifications may be described; and that they do also this day sevensnight offer anything that they conceive may contribute to the lessening the length and expense of Suits. (Annex (g) below). *Ordered* that the L. Chancellor send with all convenient speed a list of the fees and perquisites now allowed to any officer or other person in the Court of Chancery or taken by any of them upon the account of the hearing or the judging of any Cause in the said Court. The like Order to the Chancellor of the Duchy of Lancaster. The like to each of the L. C. Justices and to the L. C. Baron. Com. Book.

24 Jan. E. Rochester in the Chair. The Heads following are agreed to be further considered of for a Bill,—(5) That frivolous pleadings in the Court of King's Bench be disallowed. (6) That frivolous Writs of Error be regulated, to the end Suits may not be brought into so great a length. (7) That there be a convenient time set for Masters in Chancery to make their Reports in, and that, if there be any re-reference of the same matter, no new fees shall be paid. Com. Book.

26 Jan. E. Rochester in the Chair. *Ordered* that some of the Masters of the Chancery attend on the 28th inst. *Ordered* that the Judges be spoken to at the next meeting concerning their method in regulating of Counsels' fees: That the Clerk give notice to the two L. C. Justices and L. C. Baron that the Committee will sit on the 28th inst. at half past ten. Com. Book.

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28 Jan. E. Rochester in the Chair. The two L. C. Justices attending, the *L. C. Justice*, K. B., delivers in a paper in answer to the Heads given them to consider of on the 21st inst., which is read. He says several delays of Snits are remedied by an Act passed last Session for prevention of frivolous Suits. He proposes that in Suits depending at Common Law the Judges may have the like power, after issue joined, to give Commissions for examining witnesses, for preserving of evidence to be made use of at trials, as the Chancery now has. He proposes that no Attorney do practise but who is admitted in one of the Courts in Westminster Hall, the Grand Sessions in Wales, or the Duchy Courts; and that no Attorney be allowed but who shall be of some public Society. He says that in taxing costs they allow of fees to no more Counsel than they judge was necessary in the Suit. *Ordered* that at the next meeting it be considered how it may be provided that a Counsel, that has received fees of his client, shall attend the Cause in which he is feed. The Masters in Chancery to have notice to attend on the 31st inst. The *L. C. Justices* and *L. C. Baron* delivered in lists of fees. (Annexes (d), (e), (f) below.) Com. Book.

31 Jan. Nothing recorded. (The House went in a body to the Abbey.)*

2 Feb. E. Rochester in the Chair. The Proposals made on 20 Jan. and the Judges' Answer thereto are read. *Agreed* that the number of Counsel shall not exceed three of a side in all Causes pleaded in Westminster Hall, and that such Counsel as have received fees shall attend the Cause in which they have received such fees. *Ordered* that the L. C. Justice of the Court of King's Bench do with all convenient speed give the Committee an account what numbers of Attorneys were allowed in that Court in each County thirty years since, and what the number of them is now. The like Orders to the L. C. Justice of the Common Pleas and the L. C. Baron. The Head relating to Attorneys is postponed till the Judges give the above-directed account of the number of them. Com. Book.

9 Feb. E. Rochester in the Chair. The accounts of Attorneys belonging to the Courts of C. P. and Exchequer sent in by the C. Justices of those Courts are read. *Ordered* that the four Attorneys belonging to the Court of Exchequer, viz., Thomas Arden, Samuel Anderson, David Fielder, and Thomas Owen, do attend on the 16th inst. The fourth Head touching the taking away all perquisites upon the account of hearing or judging Causes is considered and *agreed* to be part of the Bill, with this addition, that no Judge shall go the same circuit twice in three years. *Ordered* that the Clerk speak to the two C. Justices to send an account of the Attorneys in their Courts on the 16th. Com. Book.

16 Feb. E. Rochester in the Chair. The four Attorneys of the Court of Exchequer are called in. They being asked say there are no more than four Attorneys in the Common Pleas of Exchequer. We have each of us four Clerks that act in our names and sit in the office. They have no deputation in writing from us. There are thousands of Solicitors that act in all Courts. Any Attorney of another Court may take out a Proceess out of our Court. They carry the Causes into other Courts. The Lord Fanshawe has two Secondaries and six Attorneys in the Equity side. We have heard there are 4,000 Attorneys in the Common Pleas. They withdraw. The Clerk is directed to let the L. C. Justices know they were expected this day with the account of Attorneys in the several Counties, and they not attending the Committee adjourned till the 19th inst. Com. Book.

* The anniversary of the death of Charles I. came on a Sunday in this year.

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19 Feb. E. Rochester in the Chair. *L. C. Justice Holt* acquaints the Committee that the officer that was preparing a list of Attorneys is dead, but he has set others to work, who shall prepare it as fast as may be; he hopes in less than ten days. He believes there are nearly 400 Attorneys belonging to that Court in England and Wales. A list of Attorneys in the several Counties belonging to the Common Pleas Court, sent in by the *L. C. Justice* of that Court, is taken notice of. *Agreed* that the number of Attorneys and Solicitors throughout all the Counties in England and Wales be restrained. Ordered to report as in *L. J.*, XVI. 214. Adjourned to the 28th inst. Com. Book.

Eodem die. The House, on this Report, ordered the Earl of Rochester to draw a Bill upon the Heads reported and present it to the House. MS. Min. *L. J.*, XIV. 214.

28 Feb. In Committee, E. Rochester in the Chair, the *L. C. Justice, K.B.*, delivers in a list of Attorneys belonging to that Court (*Annex (m)* below). He is directed to prepare a Clause (*Annex (o)* below) to forbid anyone to practise as Attorneys unless they are admitted and approved by such qualifications as his Lordship shall think fit. Com. Book.

3 March. In Committee, E. Rochester in the Chair, the *L. C. Justice Holt* delivers in the Clauses (*Annex (o)* below) directed to be drawn at the last meeting. The said Clauses are read. Clauses relating to the said matter, drawn by E. Rochester in pursuance of the desire of the House, are read, as also the Draft of the Bill relating to the Judges, Counsel, &c., for prevention of the great length and expense of Suits. Com. Book.

The Bill was presented to the House by the Earl of Rochester, and read 1^a on 4 March. *L. J.*, XVI. 225. Numerous amendments were made in C. W. H. on 29 and 31 March, *ib.* 249, 252. It was sent to the Commons on 8 April where it was rejected on 21 May after being read 2^a. *C. J.*, XII. 281.]

The papers are as follows:—

(a) 21/26 Jan. Draft Orders of dates. [See notes above.]

(b¹) 25 Jan. List of Fees of the Duchy Court of Lancaster, as follows:—

(i.) Fees received by the Deputy to the Clerk of the Council.

	For the Chan- cellor for the Seal.	For the Clerk of the Council.	For himself.
	£ s. d.	£ s. d.	£ s. d.
For a Privy Seal or Subpoena	1 4	0 8	0 6
For all copies by the sheet, for every sheet	—	0 6	0 2
For Injunctions	6 8	6 8	0 8
For a <i>Dedimus Potestatem</i> to examine witnesses	6 8	3 4	2 0
For Special Commissions	6 8	6 8	0 8
For Writs of <i>Duces tecum</i> , <i>Habeas Corpus</i> , <i>Scire</i> <i>Facias</i> , and all others	6 8	3 4	2 6
For money delivered out of Court	—	(For every 20s.) 0 4	—
*Total	1 8 0	1 1 6	6 6

* The Totals in this List are supplied by the next Paper.

(Signed) BEN. AYLOFFE,
Deputy to the Clerk of the Council.

(ii.) Fees received by the Deputy Clerk or Register.

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No. 1200.

	For the Chancellor for the Seal.	For the Clerk of the Council.	For himself.
	£ s. d.	£ s. d.	£ s. d.
An Attachment for not appearing and other process to a Commission of Rebellion	1 4	0 8	0 6
An Attachment for not answering and other process to a Commission of Rebellion	6 8	3 4	2 0
A Warrant to the Messenger to take a person into custody	6 8	3 4	2 0
A <i>Dedimus Potestatem</i> to take an Answer	6 8	3 4	2 0
Execution of an Order under the Seal	6 8	3 4	2 0
Exemplification of a Decree	6 8	per skin —	per sheet 8
For an Order for a <i>Dedimus Potes-</i> <i>tatem</i> to take an Answer in the Country signed by Attorneys	—	—	1 0
For each Defendant that answers by <i>Dedimus</i>	—	—	0 4
For an Order for a Commission to examine witnesses in the Country signed by Attorneys	—	—	1 0
For each Order moved in Court, for drawing, copying and entering, per side	—	—	2 0
Copy thereof to the other side, that doth not enter it	—	—	1 0
For a Decree, drawing, copying and entering each sheet respectively	—	—	0 8
For drawing, copying and entering a Dismissal, for every sheet in the whole	—	—	1 4
For every Defendant that is dis- missed after Answer	—	—	2 0
For filing an Affidavit	—	2 0	0 6
For copy thereof, per side	—	—	1 0
For the Master's hand, where costs taxed	—	3 4	—
Filing a Report	—	3 4	—
Copy thereof, per side	—	—	1 0
Examining a witness in Court	—	4 0	—
Every Exhibit in Court	—	2 0	—
Every Deed brought in and delivered out of Court	—	2 0	—
For copies of Depositions, per sheet	—	0 6	0 2
For each Injunction awarded	—	—	2 0
For setting down a Cause, Plea, or Demurrer	—	—	2 0
Total	1 14 8	1 11 2	1 5 2

(Signed) JO. BAKER,
Deputy Clerk or Register.

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No. 1200.

(iii.) Fees received by the two Attorneys.

	For the Clerks of the Council.	For themselves.
	£ s. d.	£ s. d.
Filing every Bill, Information and Answer, and so every term while such Cause is proceeded in	—	3 4
For the first Defendant's appearance, there being more appearances than one entered at the same time	2 0	3 4
For every other Defendant's appearance entered at the same time	2 0	1 8
For every motion made in Court by one of the Attorneys, to him that makes such motion	—	5 0
For every Order of Consent not moved in Court subscribed by the said two Attorneys, to each of them from his client	—	5 0
For every Cause called a Paper Cause argued or heard or put down in the Paper of Causes to be argued or heard in Court, each Attorney's fee (in lieu of 3s. 4d. his Term fee) is	—	6 8
For every Bill of Costs exhibited	—	5 0
For every Oath made of the return of a <i>Dedimus</i> or Commission	0 4	—
Total	0 4 4	1 10 0

(Signed) RICHARD HUSBAND.
THO. ASSHETON.

(iv.) Fees received in Court on Decrees made, Causes dismissed, Trials at law directed, Reports and Exceptions thereto heard, Pleas or Demurrers argued, and Contempts heard.

	Decree.	Dis- mission.	Trial at Law.	Report.	Ex- ceptions.	Plea or De- murrer.	Con- tempt.
	£ s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.
To the Usher of the Court	16 0	8 0	8 0	6 8	6 8	6 8	6 8
To the Judges' As- sistants' Clerks	2 6	2 6	2 0	2 6	2 6	2 6	2 6
To the Chief Wax	2 0	1 0	1 0*	1 0	1 0	1 0	1 0
Total	1 0 6	11 6	11 0	10 2	10 2	10 2	10 2

* To be paid between Plaintiff and Defendant.

£ s. d.

Memorandum: There is paid to the Attorney-General of the said Duchy for signing all Pleadings where the King is a party, to himself for each 10s., and to his Clerk 1s.	11 0
The like for every Report by him made	11 0
The like for signing every Injunction, Decree or Dismission between party and party	11 0
Total	1 13 0

(b²) 25 Jan. Summary of preceding, supplying the totals as above.

(c) 28 Jan. Fees of the King's Remembrancer and his Clerks. 1697-8.
Endorsed as sent in by the L. C. Baron:—

(i.) The Fees of the King's Remembrancer.	£	s.	d.	No. 1200.
For a Customer's View and Account of Bridgwater, Chichester, Newcastle, Plymouth, Fowey, Poole, Berwick, for each of them	3	4		
For the like in the rest of the ports	6	8		
For every General Issue with one name	2	0		
For every several name in a General Issue more than the first	2	0		
For a Special Plea for every half roll	3	4		
For every several name in a Special Plea	2	0		
For a Plea upon a Compertum	6	8		
The Writs of Privilege, Injunction, Supersedeas, Extent, Fieri facias et Certiorari under the Exchequer seal	2	0		
And if an Extent, Scire facias, or Supersedeas be awarded with a Schedule, then for every debt after the first	2	0		
For every Nisi-prius	6	8		
For every Commission and Dedimus potestatem	6	8		
For every Writ of Mittimus, Certiorari under the Great Seal, every Writ of Error, and every Writ for making seals for Ulnagers directed Custod. Cambij	6	8		
For every Recognizance and Obligation of 40 <i>l.</i> or under	3	4		
For every Recognizance and Obligation of 50 <i>l.</i> and above to 100 <i>l.</i>	5	0		
For every Recognizance and Obligation of a hundred pounds 6 <i>s.</i> 8 <i>d.</i> , and so for every 100 <i>l.</i>	6	8		
For every Obligation discharged and delivered, for the record thereof of half a roll	3	4		
For every Obligation for payment of rents and performance of covenants upon ordinary leases, for himself 2 <i>s.</i> , and for his clerk 8 <i>d.</i>	2	8		
For every day given to an Accountant	1	8		
For the entry of every Order	2	0		
For setting his hand to every Copy or Constat desired by the suitor	3	4		
For the enrolment of Letters Patents, Escripts confessed and other enrolments, after the rate of every half roll	3	4		
For Exemplifications for every Inspeximus	6	8		
For a Particular	6	8		
For every Particular containing more than a prest, for every prest	6	8		
For every Fine	2	0		
For every Exemplification containing more than a skin, for every skin	6	8		
For every Confession made for the King's Attorney-General	2	0		
For every Judgment, for the party	3	4		
For every bill of Bail	2	0		
For cancelling a Recognizance	2	0		
For cancelling a Recognizance of the Augmentation Court	3	4		
For every warrant for a Composition upon any of the dormant Privy Seals	6	8		
For every Statute, Recognizance, Bill and Bond assigned	6	8		

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	£	s.	d.
For every revocation of an Assignment	6	8	
For the discharge of every Amerciament	3	4	
For every Escheator's account allowed by a Decree of this Court made anno primo nuper Regis Caroli [Margin : A new Fee allowed by Decree since primo Regis Caroli]	3	4	
For receiving and paying out of moneys deposited in Court allowed by an Order made 3 ^o Feb. anno 2 ^o Regis Jacobi upon every pound when it was paid out	0	2	
For copy of an Order, for every sheet, to the clerk that copies them	0	8	
For entering of an Order, for every sheet, to the clerk who enters them	0	8	
For the examination of every Certificate for double tax of subsidy	0	4	
For a Certificate out of the Subsidy Book	1	0	
For a Constat to discharge a Super in the Pipe for Subsidies after the account is passed	3	4	
For a Constat made out of the Custom Books to discharge a port Bond	2	0	

(ii.) The Fees of the Sworn Clerks in the King's
Remembrancer's Office.

The Attorney's fee for every client that he is towards every Term	3	4	
For entering every defendant's Appearance	0	4	
For every Warrant of Attorney	0	8	
For every bill of Bail	0	8	
For making every ordinary Information	3	4	
For inrolling every Information and every Compt not exceeding half a roll	3	4	
For every Writ of Subpœna, Attachment, Appraisement, Venire fae[ias] Attendance	2	0	
For a Subpœna to appear in the Office of Plea	1	6	
Distringas ad respond : Cap.[ias], Dues tecum, and such like Writs	2	0	
For drawing all Informations, Orders, Decrees, Com- missions, Writs, Particulars, and other matters, for every sheet	1	0	
For copies of every sheet	0	8	
For ingrossing every sheet	0	8	
For all Inrolments, for every roll	6	8	
For every General Issue	3	4	
For joining upon the Issue upon the Record	2	0	
For every prest of Nisi prius	6	8	
For every Writ of Distringas Juratores	4	0	
For making the warrant of Nisi prius	2	0	
The dividend of every Nisi prius	8	0	
For every Com. of Nisi prius in the Country	6	8	
For every Information upon seizure	6	8	
For entering the Writ of Appraisement upon Record, and for recovering the goods	6	8	
For drawing an Order, or giving a Rule for a day to plead or appear	1	0	
For entering every continuance of the Term	0	4	
For every Motion the Attorney makes for his client	3	4	

	£	s.	d.	1697-8.
For Conveyance of the Writ of Common adjournment upon Record - - - - -	1	0		No. 1200.
For every Writ of Injunction, Habeas Corpus, Privilege, Supersedeas, Amoveas man., Prohibition, Consultation, Certiorari, Extent, Fieri facias, Scire facias, Precedend. Delivery, Constat, Venditioni Exponas and every such Special Writ - - - - -	5	4		
For every Patent Commission - - - - -	12	0		
For every Dedimus potestatem - - - - -	9	6		
For every Judgment entering upon Record - - - - -	3	4		
For entering a Tally - - - - -	1	0		
For entering and inrolling every Recognizance - - - - -	5	8		
For entering every Bill, Answer, Replication, Rejoinder, Surrejoinder and filing it - - - - -	2	0		
For making a Licence and entering it - - - - -	3	4		
For reading the Clients' Evidence at the hearing of a Cause or reading a Record for a Demurrer - - - - -	3	4		
For making a Bill of Costs - - - - -	2	0		
For ingrossing a warrant for a Composition, for every prest of parchment - - - - -	6	8		
For inrolling a Statute, Bond, Bill or Recognizance assigned - - - - -	3	4		
For Exemplifications, for every roll - - - - -	6	8		
For inrolling every Writ of Error - - - - -	6	8		
For inrolling a Replication, Rejoinder and Demurrer, not exceeding half a roll - - - - -	3	4		
For ingrossing a Particular, every prest - - - - -	6	8		
For the search of any ancient Record at Westminster - - - - -	3	4		
For every other search, for every Term - - - - -	0	4		
For entering and delivering every Indenture discharged by order of the Court - - - - -	6	8		
For every Amerciament of Sheriffs discharged by warrant or order of the Court - - - - -	3	4		
For drawing and making every Bond for Accountant's debtors - - - - -	5	8		
For delivery of every Bond - - - - -	1	0		
For every Super and Longe upon the Accountant's account for making the particulars of the fifteen books, after the rate of every roll - - - - -	2	6		
For entering the Cofferer's account - - - - -	13	4		
For every other great account - - - - -	6	8		
For carrying the Red Book for removing a suit commenced against a person privileged in the Court of Exchequer - - - - -	6	8		
For making a Bill for Certificate into the Chancery, or into the Pipe, for a Sheriff or other Accountant's Recognizance - - - - -	1	0		
For making a Fine - - - - -	2	0		
The Dividend money - - - - -	5	0		
For pleading the Privy Seal - - - - -	6	8		
For inrolling the same and finishing of the Record - - - - -	6	8		
For making the King's Attorney's Confession - - - - -	2	0		
For discharging a Process after it is made - - - - -	1	0		
To the Attorney for filing every Escheator's account allowed by the Decree of this Court made anno primo Regis Caroli - - - - -	3	4		

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	£	s.	d.
For making a Deed of Assignment - - -	-	6	8
For inrolling the same - - -	-	6	8
For making a Revocation - - -	-	6	8
For inrolling the same - - -	-	6	8
To the Attorney for attending the hearing of every Cause or attending a trial at law - - -	-	6	8

xxviii^{to} die Januarii 1697.Ex^r per T. Eden, D. Rem. Re.

(d) Jan. 28.—List of Fees in the Court of Common Pleas. Delivered
in by the L. C. Justice of that Court, viz. :—

Common Pleas.

	£	s.	d.
If a Jury appear at the Bar, the fees are,			
To the Secondary for calling and swearing the Jury -	2	0	
For reading Evidences on each side - - -	3	4	
To the four Criers - - -	2	0	0
To the Court Keeper, Porter, Treasury-Keeper and Warden of the Fleet, each 5s. - - -	1	0	0
For swearing every witness - - -	0	4	
If the Jury give a verdict for the plaintiff,			
To the Prothonotary for taxing the Bill of Costs and signing Judgment - - -	3	4	
If the verdict be for the defendant, more - - -	2	0	
For drawing and entering the Judgment upon record -	1	4	

(e) Jan. 28.—List of Fees in the Court of King's Bench. Delivered
in by the L. C. Justice of that Court, viz. :—

*King's Bench.**Trials at the Bar.*

	£	s.	d.
To the Secondary for swearing the Jury - - -	2	0	
The like to the Crier - - -	2	0	
For reading evidence on each side } - - -	1	0	
To the Clerk of papers - - -			
To the Criers, Door-keepers and four Marshal's men -	2	0	0
To the Judges' footeloths-men - - -	10	0	
For swearing every witness, to the Crier - - -	0	4	
For signing and entering the Judgment - - -	5	0	
To the Judge who takes a privy verdict - - -	6	8	
The like to the Secondary - - -	6	8	
To the Treasury Keeper - - -	2	6	
To the Bag-bearer - - -	1	0	
To the Court Keeper - - -	1	0	
To the Clerk of Rules for keeping the writings, from each side 5s. - - -	10	0	

(f) Jan. 28.—Parchment List of Fees allowed and taken in the Office
of Pleas of Exchequer for Writs, Entries, and other proceedings,
according to the Note presented and delivered up in Parliament
Anno xxi^o. Ja. Reg.

	£	s.	d.
The Writ of Quominus and seal - - -	4	1	
The Alias and Pluries quominus and seal - - -	2	7	
The Distringas nuper vice comitem and seal - - -	2	7	
The Habeas corpus super cepi and seal - - -	2	7	
The Writ of Venire facias and seal - - -	1	7	

	£	s.	d.	1697-8.
The Writ of Distringas alias and pluries and seal	-	2	7	—
The Writ of Scire facias, to the officer 4s., to the attorney 12d., the seal 7d.	-	5	7	No. 1200.
The Subpœna ad testificandum and seal	-	2	7	
For every Habeas corpus and seal	-	4	7	
For every Procedendo	-	4	7	
For every Injunction concess. per curiam	-	2	7	
For every Subpœna for costs	-	3	7	
For every Attachment thereupon	-	3	7	
For every Fieri facias upon any assignment by an Accountant	-	2	0	
For every Fieri facias upon a tally	-	0	6	
For every Fieri facias upon an allowance had in the Exchequer	-	2	0	
For a Supersedeas	-	4	7	
For a Writ of Restitution	-	2	0	
For a Prohibition	-	2	0	
For a Commission de quorum nomina	-	4	4	
For every Supersedeas upon a Capias or Fieri facias or Writ of Error	-	4	0	
For every Writ of Execution, whether Facias ad satisfaciendum, ad computandum, Fieri facias, or Elegit officiar.	-	0	6	
For every such Execution, Pluries, and Testat. officiar.	-	2	0	
The Attorney for each of them	-	0	6	
For a Subpœna out of the Remembrancer's office	-	3	7	

Entries, Drawings, Engrossments, and Exemplifications.

For recording of every Appearance upon the Roll upon a capi corpus	-	2	0
For entering of every Appearance in the paper book	-	0	7
For entering of every Declaration, Answer, Replication, and Rejoinder containing more than half a roll	-	6	8
For engrossing every Declaration and Bill, after the sheet	-	0	6
For the entering of every Pleading containing a roll	-	6	8
For every entry containing half a roll	-	3	4
For drawing all Declarations and Pleadings, after the sheet	-	0	8
For copies of Pleadings, after the sheet	-	0	4
For every Continuance on record and Imparlaunce	-	0	6
For every Special Imparlaunce	-	0	12
For the entry of Nil die non sum informatus or Confession upon any Action	-	2	0
For the entry of Judgment thereupon	-	2	0
For every Warrant of Attorney 8d., whereof 4d. to the officer for filing and 4d. to the attorney for engrossing	-	0	8
For every record of Nisi prius containing half a roll or less 6s. 8d., whereof 3s. 4d. to the officer and 3s. 4d. to the attorney	-	6	8
For the entry of Nisi prius containing a roll 13s. 4d., whereof 6s. 8d. to the officer and 6s. 8d. to the attorney, and so after the rate of every roll 13s. 4d.	-	13	4
For the entry of the Jurata	-	0	12
For the Commission ad ass. with the record of Nisi prius 6s. 8d., viz., to the attorney 3s. 4d. and to the officer 3s. 4d.	-	6	8

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	£	s.	d.
For the entry of the Postea, to the officer - -	2	0	
For the entry of every Judgment thereupon, to the officer - - - -	2	0	
For the Exemplification of any Record containing half a roll or less 6s. 8d., whereof to the officer 3s. 4d., to the attorney 3s. 4d., and so of larger extent -	6	8	
For entering of a Non-suit, Discontinuance, or Retraxit, to the officer - - - -	2	0	
For entering every Special Verdict, after the roll -	6	8	
For copies of Demurrers and Special Verdicts for the Barons, after 4d. the sheet, to the attorney -	0	4	
For every Bail and Recognizance entered, to the officer -	4	0	
For taking the Bail, to the Secondary or Recognizance -	0	8	
*For Damages clear in all Actions where 10 <i>l.</i> is given for damages or more in any pound, to the officer -	—		
For the inrolling a Writ of Error, to the officer -	6	8	
For the same, to the attorney - - - -	3	4	
For certifying the Record upon a Writ of Error, after 6s. 8d. the roll - - - -	6	8	
For engrossing the warrant for an Innovatur -	0	8	
For the entry, to the officer - - - -	2	0	
For the attorney's fee - - - -	3	4	
For the entry of the Certiorari out of the Chancery to certify a Record to the officer - - - -	3	4	
For the certifying the same Record, after the rate of records of Nisi prius and Exemplifications, by the roll -	6	8	
For every Rule - - - -	0	4	
For drawing and entering every Order of Court, after the length for every sheet - - - -	0	8	
For acknowledging every Satisfaction upon record, to the officer - - - -	2	0	
For every Release - - - -	2	0	
For inrolment of every Recognizance cum conditione -	4	0	
For inrolment of every Recognizance without condition -	2	0	
For commitment of every prisoner - - - -	2	0	
For entry of every Suggestion, after the length of every roll - - - -	6	8	

(Signed) THOMAS MARRIOTT, Clericus Placitorum.
 THOMAS ARDEN, Secondary.
 SAMUEL ANDERSON.
 DAVID FIELDER.
 THOMAS OWEN.

(g) Jan. 28.—Paper delivered in this day by the two L. C. Justices in pursuance of the Lords' Committees' directions given them the 21st inst., viz. :—

We do not think it will be convenient to have any regulation made of the number of Counsel, it being a lawful liberty, and sometimes necessary for the prosecuting and preserving men's rights, that they should have the advice and assistance of diverse Counsel at their own charge. By reason of the disproportion of Counties and of the business there, it is hardly practicable to ascertain the number of Attorneys in the respective Counties. But we think it a proper way to restrain their number, that a law be made to

* In margin : Taken away by Act of Parliament.

forbid any to practise as Attorneys unless they are admitted and approved by such persons as by such law shall be trusted and empowered in that behalf. The due qualifications are education, science, integrity and reputation. The Judges do, according to their duty, avoid delays in Causes. And as to expense, there is nothing allowed to be taken but ancient, just and reasonable fees. But the great expenses arise from the fees voluntarily given by the Clients themselves.

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(h) Jan. 31.—Fees belonging to the High Court of Chancery upon the account of the hearing or adjudging of any Cause in the said Court. *Endorsed* as received this day.

	£	s.	d.
To the Usher of the said Court	2	0	
To the Crier	1	0	
To the Deputy Usher	2	0	
To the Door-keepers	2	0	
To the Warden of the Fleet	1	6	
To the Book-bearer	1	0	
To the Court Keeper	0	6	
For every witness sworn in Court, to the Usher and his deputy	1	6	
For every Decree pronounced	12	0	
Whereof to the Master of the Rolls	6	8	
To the Master of the Registrar's Office	5	4	
For every Dismission pronounced	10	4	
Whereof to the Master of the Rolls	6	8	
To the Master of the Registrar's Office	3	8	
For the drawing every Order on hearing or adjudging any Cause, for every side	3	0	
Whereof to the Master of the Registrar's Office	2	0	
To the Deputy	1	0	
For the entry of every such Order, per side	0	6	
To the Six Clerk, for drawing and inrolling every Decree and Dismission	1	13	0
To the Lord Chancellor's Secretary, for the signing every Decree and Dismission	2	6	
To the Registrar, for presenting such Decree and Dismission to be signed	5	0	

(i) Feb. 7.—L. C. Justice of the Common Pleas' Account of the Attorneys belonging to that Court, viz.:—

The number of Attorneys on the Roll of the Court of Common Pleas 30 years since, being the year of our Lord God 1667, is 1,431

The number of Attorneys on the Roll for the year 1697 is 1,081

(k¹) Feb. 9.—L. C. Baron's Account of Attorneys belonging to the Court of Exchequer. The paper contains an Order of the Committee of 2 Feb. calling for an account of what number of Attorneys were allowed in that Court in each County thirty years since, and what the number of them is now, and a certificate, underwritten and signed by Edward Ward, that there are only four Attorneys at Law in the Court of Exchequer, who have all their ordinary residence in London, and that no other Attorneys at Law have been or are allowed in that Court in any of the Counties of England thirty years ago or since, but all proceedings at law in that Court are carried on in the names of those four Attorneys, and they are accountable to the Court for the same.

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(k²) Names of the four Attorneys in the Court of Exchequer, viz.:—
Thomas Arden, Samuel Anderson, David Fielder and Thomas Owen.
Signed Edw. Ward.

(l) Feb. 18.—L. C. Justice of the Court of Common Pleas' Account
of the number of Attorneys in the several Counties of England in
1667 and 1697 (two Papers), viz.:—

—	1667.	1697.	—	1667.	1697.
Bedford - -	12	10	Sussex - -	51	31
Berks - -	18	10	Warwick - -	36	31
Brecknock - -	—	1	Westmoreland - -	12	7
Bucks - -	14	15	Wigorn - -	36	22
Cantebr. - -	41	22	Wilts - -	39	14
Chester - -	—	4			
Cornub. - -	10	19			
Cumbr. - -	—	8			
Derb. - -	27	20			
Devon - -	37	38			
Dors. - -	25	9			
Ebor. - -	136	116			
Essex - -	34	30			
Glouc. - -	43	19			
Heref. - -	24	15			
Hertf. - -	34	21			
Hunt. - -	14	16			
Kent - -	51	41			
Lanc. - -	13	—			
Leic. - -	27	26			
Lincoln - -	75	59			
Middx. - -	30	51			
Merioneth - -	1	—			
Montgomery - -	3	1			
Monmouth - -	7	2			
Norf. - -	93	71			
Northton. - -	36	26			
Northumbr. - -	1	7			
Nott. - -	17	6			
Oxon - -	29	13			
Rotell. - -	6	5			
Salop - -	32	33			
Somerset - -	52	18			
Staff. - -	29	17			
Suff. - -	54	71			
Surrey - -	24	15			
Southton. - -	38	12			
				1,421	1,096

Cities and Towns.

Bristol - -	2	3
Bath - -	—	—
Cantuar. - -	1	—
Chester - -	—	—
Carlisle - -	—	—
Colchester - -	—	—
Covent. - -	1	3
Chichester - -	—	—
Exeter - -	—	—
Ebor - -	4	1
Exon - -	2	3
Glouc. - -	4	—
Hereford - -	—	—
Lichen - -	1	4
Lincoln - -	—	—
London - -	134	123
Newcastle-upon-		
Tyne - -	1	3
Norwich - -	7	4
Nott. - -	2	—
Oxon - -	—	—
Rochester - -	—	—
Southton. - -	1	—
War. - -	—	—
Wigorn - -	—	—
Westm. - -	—	—

(m) List of the Attorneys of the Court of King's Bench. *Endorsed*
as delivered in by the Ld. Chief Justice 28th Feb. 1697.

BEDFORD:—

Daniel Marsh, Dunstable.
John Marsh, Leighton.

BERKSHIRE:—

Rich. Cooper, Newbury.
Hen. Deane, Reading.
Edw. Godwin, } Newbury.
Edw. Searle, }
Hen. Bishopp, Reading.
John Harwood, Windsor.
Burgis Diaper, Reading.
Thos. Chadwicke, Lambourn.
Thos. Russell, Maidenhead.
Rich. Lyford.
Thos. Colnett, Thatcham.

BUCKINGHAMSHIRE:—

Leonard Thompson.
John Burnham, Long Crandon.
Willm Gilmore.

CAMBRIDGESHIRE:—

Charles Drake, } Isle of Ely.
Thos. Johnson, }
John Scott, near Hackey.
Sheffield Stubbs, Ely Isle.

CHESHIRE:—

James Hardy, Knutsford.
John Worrall, Pownall.

CORNWALL:—

Robt. Avery, Truro.
John Carveth, Penzance.

CORNWALL—*continued.*

William Cooke, Helston.
 Richard Eaze, Saltash.
 Ezekiel Gully, Bodmin.
 Joseph Hawkey, St. Columb.
 Thomas Hawkins, Helston.
 Edward Hoblin, Sen^r., St. Stephens.
 John Newman, Penryn.
 William Oliver, Launceston.
 Richard Remfry, Redruth.
 John Stephens.
 George Tremaine, Redruth.
 Otho Glyn, Helston.
 Thomas Hoblyn, } St. Columb.
 Peter Champion, }
 Hugh Williams, Fowey.
 Francis Carthew, St. Petherick
 [St. Petrock]
 Robert Cocke, Redruth.

CUMBERLAND :—

Denis Mounsey.

DERBYSHIRE :—

Thomas Statham, Tideswell.
 Cornelius White, Buxton.
 Wm. Wingfield, Wirksworth.
 Rich^d. Lewis, Derby.
 Chr. Stavely, Castleton.
 James Sherrat, Tideswell.

DEVONSHIRE :—

Charles Baker, Ottery St. Mary.
 John Beere, } Plymouth.
 Robert Berry, }
 Charles Bidlake, Crediton.
 Geo. Blinch.
 Roger Caunter, Ashburton.
 Nosse Clapp, Collumpton.
 Joh. Clifton, Bideford.
 Philip Crossing, Plymouth.
 John Drake, Exeter.
 John Hawkins, Crediton.
 John Hole.
 John Jacob, Tavistock.
 Richard Hawkins.
 John Richards, Tiverton.
 Richard Stevens, Tavistock.
 Thomas Wood, Tavistock.
 Richard Pratt.
 John Pitfield.
 John Pethen, Plymouth.
 Robert Chute, Exeter.
 John Caunter, Ashburton.
 John Body, Holsworthy.
 John Etheridge, Exeter.

DORSETSHIRE :—

Thomas Cooper, Dorchester.
 Thomas Delacourt, Dorchester.
 William Humphreys, Little Can-
 ford.
 Edward Lawrence, Blandford.
 Andr. Loder, Dorchester.

DURHAM :—

Jonathan Johnson.
 William Dixon.
 Thomas Forster.

YORKSHIRE :—

William Sympson, Pontefract.
 Martin Stacy.
 Joseph Banks, Sheffield.

YORKSHIRE—*continued.*

Edward Benson, Skipton.
 Jeremiah Brigg, Halifax.
 Samuel Brooksbank, Leeds.
 William Calverley, Leeds.
 Hen. Clarebrough, Wakefield.
 James Close, Richmond.
 John Crabbtree, Halifax.
 James Donford, Barnsley.
 William Fenton, Barnsley.
 John Gannel, Leeds.
 Cuthbert Garth, Richmond.
 William Greaves, Sheffield.
 John Greensmith, Sheffield.
 Thomas Jackson, Nunnington.
 Joseph Armitage, Sheffield.
 Edmond Barker, Otley.
 Anth. Hunter.
 Wm. Ingram, Leeds.
 William Livesay, Halifax.
 John Marrow, Worsborough.
 John Marsden, Leeds.
 Geo. Meriton, Northallerton.
 Chr. Mitchell, Shipton.
 Wm. Midgley, Halifax.
 Wm. Plewes, Richmond.
 Rich^d Rodes, Otley.
 John Seagar, Allerton.
 John Spink, Leeds.
 Robert Wrightson, Doneaster.
 Richard Bacon, Sheffield.
 Hen. Waterhouse, Sheffield.
 Stephen Robinson, Hull.
 Edward Nelthorpe, Kingston
 super-Hull.
 Hen. Rhodes, Leeds.
 William Adams, Worsborough.
 Leonard Bryar, Leeds.
 Hen. Hall.
 Nevil Bayly, Barnsley.

ESSEX :—

John Carter, Braintree.
 Thomas Velly, Ongar.
 John Chaplin, Halstead.
 Tho. Fifield, Romford.
 Matth. Hickeringill, Colechester.
 William Hill, Rusper [Sussex].
 Thomas Ingrey, Halstead.
 Joseph Lee, Writtle.
 Nath. Plume, Braintree.
 William Smith, Daymont.
 Samuel Snoden, Bishop's Stort-
 ford [Hertford].
 Robert Thorey.
 Thomas Webster, Chelmsford.
 John Burwell.
 Jos. Walker, Colchester.
 Richard Beresford, Waltham
 Abbey.

GLAMORGANSHIRE :—

David Thomas.

GLOUCESTERSHIRE :—

Thomas Clements, Painswick.
 Robert Brereton, Cirencester.
 Richard Talboyes, Tetbury.
 Hen. Wastborow.
 John Hellyer, Horsley.
 Robert Gore.

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GLOUCESTERSHIRE—*continued.*

Robert Pool, Newnham.
 Giles Easteourt, Nimsfield [Nym-
 phsfield].
 Geo. White, Brownshill.

HEREFORDSHIRE :—

Robert Rodd, Ross.
 James Bengough.

HERTFORDSHIRE :—

William Benson.
 Thomas Atkinson.
 Richard Chauncey, Hertford.
 Samuel Stonard, Barnet.
 John Weekes, Barnet.

HUNTINGDONSHIRE :—

Fr. Parris.

KENT :—

John Collet, Deptford.
 John Somers, Rochester.
 Sheffield Stubbs, Canterbury.
 Nath. Potten.
 William Codd.
 Fran. Raworth, Dover.
 Tho. Collet.
 John Bushell.
 Timothy Stileman.
 Roger Tomlin.
 Fr. Lovelace, Canterbury.
 Carew Holford, Tunbridge.
 John Savage.

LANCASHIRE :—

[No names given.]

LEICESTERSHIRE :—

[No names given.]

LINCOLNSHIRE :—

John Bell,
 Charles Copping,
 Richard Palfryman, } Boston.
 John Rockett.

LONDON :—

William Day, Wood Street.
 Joseph Dell, Wine Office Court.
 John Etheresea, Garlie-hill [Gar-
 liehithe].
 Samuel Gee, Brewers' Hall.
 Charles Goodman, Bishopsgate
 Street.
 John Green, Bartholomew Lane.
 John Green, Nicholas Lane.
 Hen. Jevon, Ave Maria Lane.
 Richard Dawling, Poultry
 Compter.
 William Dixon.
 William Lambray, Leadenhall
 Street.
 John Lock, Threadneedle Street.
 Richard Mallibar, St. John's
 Street.
 Francis Moore, Devonshire
 Square.
 Arthur Monse, Bishopsgate
 Street.
 John Odingsells, Philpot Lane.
 James Parker, Abchurch Lane.
 Joseph Pember, Lawrence Lane.
 Thomas Poore, Cateaton Street.
 Samuel Porter, Friday Street.
 John Prat, Wood Street.

LONDON—*continued.*

Tho. Prime, Bartholomew Lane.
 Christop. Roberts, Custom
 House.
 Leonard Scott, Bishopsgate
 Street.
 Edwd. Shaller, Grocers' Alley.
 Edwd. Smith, Guildhall.
 Randal Stracy, Prinees Street.
 Wm. Twiford, Drapers' Hall.
 Ben. Tymme, Wood Street.
 Fran. Whinniard, Philpot Lane.
 George Wileoeks, Poultry.
 Joseph Williams, Stocks Market.
 Tho. Woodford, Threadneedle
 Street.
 John Abbingdon, Coleman Street.
 Humphry Ambler, Old Bailey.
 Edward Ambrose, Stocks Market.
 Nicholas Baker, Lawrence Lane.
 William Baker, Budge Row.
 Robert Barker, Painters' Hall.
 Charles Bateman, } Bread Street.
 Tho. Bathurst, }
 Edward Beal, Nevill's Alley.
 Wm. Bellamy, Poultry Compter.
 Wm. Beasley, Bread Street.
 Thomas Bethell, St. Paul's
 Churchyard.
 Fr. Bithell, Creed Lane.
 Robert Brabourne, Poultry
 Compter.
 Jonathan Bridges, Fetter Lane.
 John Browning, King Street.
 Tho. Carr, Fenchurch Street.
 John Chambers, Lombard Street.
 James Cunningham, Fleet Street.
 Tho. Symons, Cornhill.
 Richd. Puplett, Fish Street.
 Tho. Warren.
 Nicholas Goodwin.
 James Barnes, Poultry.
 Daniel Russell, Skinners' Hall.
 John Newman, Poultry.
 Hen. Mills.
 Chr. Barry, Poultry.
 William Gregson, Old Jewry.
 Benj. Eaton, Nicholas Lane.
 Robert Curtis, Grocers' Alley.
 Peter Short, Poultry.
 John Andrews, Basinghall Street.
 Fran. Hardy.
 William Strode.
 Edw. Roe, Minorities.
 Geo. Beeher.
 John Cole, Winehester Street.
 John Sheirman.
 Richard Thompson, Poultry.
 Wm. Coekeroft, Fish Street.
 Jonathan Ravenhill, Grocers' Hall.
 Richard Watts, Walbrook.
 Cha. Perkins, Watling Street.
 John Benson, [St.] Swithin's
 Lane.
 Geo. Smith, Wood Street.
 David Glynn, Poultry.
 Dutton Seaman, Old Jewry.
 Robert Lane, Bartholomew Lane.

LONDON—continued.

Philip Vaughan, Cheapside.
 John Baptist Peters, Bow Lane.
 Vincent Skeynes, Billingsgate.
 John Seaward.
 Richard Bogan, Poultry.
 Joshua Morris, Plumbers' Hall.
 Joseph Haley.
 Mangre Vavasour.
 Charles Cheyney, Cornhill.
 Richard Swift, Warwick Lane.
 John Stannard, Smithfield.
 John Ince, Bank.
 Godfrey Woodward, Stocks
 Market.
 John Philpot.
 William Lightfoot.
 Fr. Moore.
 Henry Travers.
 John Normansell, Alderman-
 bury.
 Tho. Walder, Philpot Lane.
 Hen. Dodd, Inner Temple.
 Tho. Glyn, } Temple.
 Jonathan Smith, }
 John Beale, Middle Temple.
 John Buxton, Inner Temple.
 Alex. Cowes, Temple.
 Cha. Sanderson, Inner Temple.
 Tho. Harrison, } Middle Temple.
 Hugh Mills, }
 Mich. Richards, }
 David Offey, } Inner Temple.
 Tho. Nurse, }
 Tho. Seecombe, Middle Temple.
 John Warter, } Inner Temple.
 Jno. Llewellyn, }
 Nathl. Hickman, }
 Edward Hoblin, Middle Temple.
 Geo. Allgood, Inner Temple.
 Rich. Longford, Middle Temple.
 Wm. Minors, Inner Temple.
 Robert Warter, } Temple.
 Bezeleel Knight, }
 Robert Blunt, Inner Temple.
 Richard Whitfield, } Middle
 Richard Pursell, } Temple.
 John Barnard, }
 John Milborne, Inner Temple.
 Adam Baynes, } Temple.
 Geo. Warter, }
 Tho. Kennet, } Inner Temple.
 Tho. Bromfield, }
 Robert Pugh, Middle Temple.
 Tho. Selby, } Temple.
 Barth. Dutton, }
 Fr. Kellet, }
 William Turbill, }
 Robert Hide, Serjeant's Inn.
 Henry Wright, }
 Charles Drake, }
 John Holloway, }
 Dan. Parr, } Clifford's
 Fran. Hayes, } Inn,
 Ellis Stevens, } London,
 Edmond Butler,
 Tho. Marriot,
 John Hooke,

LONDON—continued.

Gilbert Urwin,
 Chr. Smith,
 John Lilly,
 Whitlock Bulstrode,
 Richard Peers,
 Arthur Kettleby,
 Thomas Johnson,
 Henry Hargrave,
 Thomas Tompson,
 Seth Powell,
 William Manlove,
 Frederick Alpe,
 Robert Greenaway,
 Sam. Smith,
 Tho. Stamp,
 John Chapman,
 William Collyer,
 John Watts,
 Robert Greenaway,
 Junr.,
 Seckford Cage,
 Adlard Cage,
 John Leigh,
 John Rice,
 Edward Miles,
 Fran. Wright,
 John Aston,
 John Clarke,
 John Smith,
 Geo. Budd,
 Hen. Stobart,
 Edw. Southwell,
 Mich. Johnson,
 F. Thacker,
 Jas. Close,
 John Smith, Sub vic
 Middx.,
 John Hardisty,
 Chr. Yates,
 Nich. Harding,
 John Pope,
 James Whitehall,
 Barth. Pickering,
 Cromwell Death,
 Barth. Mountagu,
 Thomas Nicholl,
 Lancelot Tolson,
 Leonard Hodgkis,
 William White-
 head,
 Edward Wiudus,
 Richard Milner,
 Robert Browne,
 Richard Edwards,
 Daniel Browne,
 Henry Deane,
 Moseley Winell,
 Jonathan Boulton,
 Hen. Boulton,
 John Higgons,
 Gabriel Leach,
 James Hooton,
 Samuel Diggle,
 Charles Tracy,
 Hen. Warren,
 Edward Webb,
 Richard Tolson,

Clifford's
 Inn,
 London.

Barnard's
 Inn,
 London.

Thavies
 Inn,
 London.

Furnival's
 Inn,
 London.

Staple
 Inn,
 London.

Gray's Inn,
 Middlesex.

Lincoln's
 Inn,
 Middlesex.

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LONDON—*continued.*

Charles Ballet,
 Giles Hooper,
 Edw. Farrer,
 Edward Chapman,
 Rich. Gollopp,
 Geo. Tilden,
 Robert Powlet,
 John Driver,
 Hen. Dottin,
 Nath. Trayton,
 Richd. Gates,
 Ben. Osborne,
 Fr. Rouse,
 Arth. Lake,
 Tho. Gregg,
 Cornelius White,
 William Castle,
 Samuel Brewster,
 Tho. Callow,
 Hezekiah Benson,
 William Doddington,
 Nich. Bedygood,
 Arth. Low,
 Robert Blachford,
 William Pickarell,
 Philip Hodges,
 James Long,
 Anthony Etrick,
 Chr. Davenport,
 Chr. Bettesworth,
 Jos. Keeve,
 Adrian Moore,
 John Sandwell,
 Thomas Tompson,
 John Stone,
 Joseph Sherwood,
 John Gold,
 Wm. Ball,
 Tho. Granger,
 James Holt,
 Geo. Burrard,
 Richd. Ashe,
 William Selleck,
 Peter Courtney,
 Tho. Bowdage,
 Ferdinando Burleigh,
 Geo. Watts,
 Giles Clarke,
 Robt. Stone,
 John Jones, Junr.,
 John Jones, Seur.,

Clement's
 Inn,
 Middlesex.

New Inn,
 Middlesex.

Lyon's
 Inn,
 Middlesex

MIDDLESEX :—

Saml. Aldridge, Staines.
 John Allen, Dulwich College.
 William Hastings, } Ratcliffe
 Robert Hastings, } Highway.
 Joseph Horwood, Westminster.
 Tho. Harvey, Red Lion Street.
 Danll. Loddington, Mimms.
 William Smith, Stepney.
 James Stone, Wapping.
 John Sutton, Islington.
 John Williams, Whitechapel.
 Henry Young, Red Lion Square.
 John Langley, } Wapping.
 William Hacker, }
 Josias Ryeroft.

MIDDLESEX—*continued.*

John Foyle, } Chancery Lane.
 William Hitch, }
 Ben. Williams, Wapping.
 Ben. Mould, Whitechapel.
 Wm. Lyde, Northall.
 John Tunstall, Brentford,
 Robert Hardisty, Essex Street.
 Richard Halton, Hicks's Hall.
 Richard Stanton.
 John Blundell.
 John Banks.

MONMOUTH :—

[No Names.]

NORFOLK :—

Thos. Adamson, Wereham.
 John Osborn.
 Tho. Selfe, Lynn.
 Anth. Wotton, Diss.
 Tho. Johnson.
 Richd. Poeock.
 Robert Ward,
 John Weld,
 Saml. Dover,
 Roger Seaman,
 Edw. Goate,
 Edward Themilthorpe,

Norwich.

NORTHAMPTONSHIRE :—

William Drage.
 William Blencowe, Marston.

NORTHUMBERLAND :—

Samuel Salkeld.
 Laneelot Algood, Newcastle.

NOTTINGHAMSHIRE :—

Godfrey Brooke, Basford.
 Arthur Rickards, Nottingham.
 James Jackson.
 Robert Fairewell, Nottingham.

OXFORDSHIRE :—

Thomas Tringham, Oxford.
 Richard Wilkes, near Banbury.
 Solomon Sewen, Henley.
 William Almont, Oxford.
 Tho. Harris, Kidlington.

RUTLAND :—

Lyon Falkener.

SHROPSHIRE :—

Edward Baldwin, Shrewsbury.
 John Beeston, Ludlow.
 Thomas Dickens, Shrewsbury.
 Thomas Smallman, Oswestry
 Cha. Baldwin, Shrewsbury.
 Jo. Jeffreys.
 Richard Pigg, Ludlow.

SOMERSETSHIRE :—

Edward Apprice, Phillips Norton [Norton St. Philip].
 Richard Clarke, Combe St. Nicholas.
 Andrew Innis, } Bristol.
 John Knight, }
 John Sexton.
 John Talladam,
 Edward Tompkins, }
 Tho. Daw, } Bristol.
 Sam. Leeke, }
 James Mead, }
 Tho. Edwards,

SOMERSETSHIRE—*continued*.

Tho. Cowles, Bristol.
 Richd. Berry, Wellington.
 Rich. Ridley, Bristol.

SOUTHAMPTON :—

Henry Curle, Andover.
 Robert Earle, Winton.
 Richard Hill, Andover.
 Matthew Imber, Winton.
 Stephen Barton, Andover.
 Wm. Pocock, Southampton.
 Joseph Woodman, Fareham.
 Tho. Rogers, Portsmouth.
 William Gamon, } Winchester.
 John White, }

STAFFORDSHIRE :—

Henry Frith, Wolverhampton.
 Robert Bromley, Budgeford.
 John Bradney.

SUFFOLK :—

Joseph Gurnall, } Lavenham.
 Thomas Denny, }
 Samuel Waller, Stowmarket.
 Geo. Catesby, Sudbury.
 Ralph Coale.
 Edward Goate, Botesdale.

SURREY :—

Thomas Moore, St. Saviour's
 Dock.
 Edm. Carent.

SURREY *continued*.

William Cooper, } Southwark.
 Tho. Rouse, }
 William Waltham, Guildford.

SUSSEX :—

Thomas Gilbert, Eastbourne.
 William Hardham, Brighton.
 Ben. Heathaw, Lewes.
 William Bury, Chichester.
 John Lynfield, Billinghamst.
 William Vincent, Arundel.
 Tho. Willard, Eastbourne.
 Henry Chatfield.
 John Seutt, Petworth.

WARWICKSHIRE :—

Anthony Ludford, Balsall [Temple
 Balsall].
 Wm. Parker, Warwick.
 Oliver Fullwood.
 John Tilghman.

WESTMORELAND :—

Timothy Banks, Kendal.

WORCESTERSHIRE :—

William Baker, Feckenham.

WILTSHIRE :—

Tho. Eyre, Box.
 Richard Hope, Devizes.
 Goulding Prentice, Marlborough.
 Edward Slade, Warminster.
 Francis Goodenough.

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The Total is 544.

'Tis conceived that many of the persons aforementioned are dead, or may have discontinued their employment ; for, though their names are found entered in the Roll of Attorneys, yet, upon enquiry made, they are not to be heard of.

(n) List, marked B :—

Bedford - -	12	6	Norfolk - -	28	14
Berks - -	21	11	Northamptonshire	28	14
Bucks - -	18	9	Northumberland	9	5
Cambridgeshire -	26	13	Nottingham -	12	6
Cheshire - -	6	3	Oxfordshire -	18	9
Cornwall - -	36	19	Rutland - -	6	3
Cumberland - -	9	5	Oxford - -	13	7
Derby - -	26	13	Shropshire -	37	18
Devon - -	34	17	Somersetshire -	34	17
Dorset - -	14	7	Southampton -	22	11
Durham - -	3	2	Staffordshire -	20	10
Dorset - -	9	4	Suffolk - -	77	39
Yorkshire - -	167	75	Sussex - -	60	30
Essex - -	46	23	Surrey - -	24	12
Gloucestershire -	32	16	Warwickshire -	40	20
Glamorganshire -	1	1	Westmoreland -	13	6
Herefordshire -	17	8	Worcestershire -	37	18
Hertfordshire -	26	13	Wiltshire - -	44	22
Huntingdonshire	17	9			
Kent - -	54	28			
Lancashire - -	10	5			
Leicestershire -	26	13			
Lincolnshire - -	63	32			
London - -	—	—			
Middlesex - -	—	—	Carmarthen - -	—	—
Merioneth - -	1	1	Cardigan - -	—	—
Montgomery - -	3	2	Pembroke - -	—	—
Monmouth - -	2	1	Radnor - -	—	—

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(o) 3 March.—Clauses drawn by the L. C. Justice in relation to Attorneys:—To prevent the many injuries and oppressions which happen to diverse of his Majesty's subjects by several persons who undertake to practise as Attorneys, especially in the remote parts of the Kingdom, Be it enacted &c. That from and after the day of , no person whatsoever shall be admitted to practise as an Attorney in the County Courts, Hundred Courts, or other inferior Courts whatsoever, unless such person be first admitted and sworn to be an Attorney in one of his Majesty's Courts of Record at Westminster, Counties Palatine of Lancaster, Chester and Durham, or Grand Sessions of Wales; And if any person shall presume to act or practise as an Attorney in any of those County Courts, Hundred Courts, or other inferior Courts, not being qualified as aforesaid, he shall, for every time he shall so act or practise, forfeit . And be it further enacted &c., That no person whatsoever shall, from and after the day of , be admitted and sworn to be an Attorney in any of his Majesty's Courts of Record at Westminster or Courts of the Counties Palatine of Chester, Durham or Grand Sessions in Wales, unless he shall have first served as a Clerk, for the space of five years, to a Serjeant-at-law, Counsellor-at-law, or Attorney-at-law, and during the whole time of his service hath approved himself to be of honest and just conversation, and shall be of sufficient skill and ability for the management of the said employment, and shall be admitted and approved of by . And if any person whatsoever shall presume to practise as an Attorney in any of the said Courts, not having been admitted and approved of as aforesaid, he shall incur the penalty . [Read this day in the Select Committee. Com. Book. Added to the Bill on 31 March in C. W. H. MS. Min.]

1201. Jan. 21.—Bishop of Chichester's Estate (Chancery Lane) Act.—Amended Draft of an Act to enable John, Lord Bishop of Chichester, to make leases of certain houses and grounds belonging to the Bishopric of Chichester, situate in Chancery Lane, for a competent number of years. The Lords' Amendments made in Select Committee were the addition of Clauses A and B, and the insertion of the date and the number of years. The Commons' Amendment was to leave out the last paragraph of Clause B (*see Annex (f)* below), which was agreed to by the Lords. Read 1^a this day; Royal Assent 2 April. L. J., XVI. 199, 256. 10 Will. III. c. 24 in Long Cal.

In Select Committee on 7 Feb. the Bill is read. John Clements' Petition referred by the House is read, as also the Order of Reference. Sir Richard Holford acquaints the Committee that the Master of the Rolls desires to be heard before the Bill be reported, conceiving himself concerned therein. *Sir Richard Holford* opens Mr. Clements' case, which is the same, he says, with his own in relation to the Bill before the Committee. *Mr. Conyers* (for the Bishop of Chichester) says all Sir Richard has said of the bargain with the late Bishop Lake is but allegation and there is no proof thereof. *Sir Richard Holford*. We can have no remedy by law, we relied upon Bishop Lake's word and honour. *Mr. Filmer* (for Clements), We built upon an honorary agreement. He reads an Affidavit (*Annex (b)* below), of Mr. John Clements', touching a discourse between him and Bishop Lake relating to the building of Symond's Inn. Mr. Clements owns he was by agreement with Bishop Lake to have borne the charge of the Act of Parliament,

and the lease was to have been but for forty-one years. *Sir Tho. Millington* being present desires to be heard. *Ordered* that the Master of the Rolls, *Sir Tho. Millington*, and all other persons concerned, have notice that the Committee will consider further hereof on Thursday next and may then be heard. On 10 Feb. *Mr. Pooley* (for the Master of the Rolls) says the Master has several privileges on the ground the Bishop would build on. The Bill is very general, it giving the Bishop power to build after such manner as he thinks fit. He proposes the model be shown to the Master of the Rolls, and if he object to it then to be determined by the Archbishop and Lord Chancellor. *The Counsel for the Bishop of Chichester* say his Lordship has spoken with the Master of the Rolls and is consenting. The Counsel are directed to draw a Proviso to that purpose and tender it at the next meeting. *Mr. Filmer* (for *Mr. Clements*) tenders a Clause to be added to the Bill relating to Symond's Inn, which is read. *Mr. Conyers* speaks against the Clause as drawn. It may be prejudicial to the See. It may be fit to give the Bishop power for a year, but to have it indefinite may prejudice his successors. *Mr. Filmer* (for *Holford* and *Clements*) agrees that the Bishop of Chichester shall have 100 guineas fine and the rent doubled for changing three lives into fifty-one years, the double rent to commence from such time as the Lords shall think fit. After debate, *agreed* that the double rent shall commence from two years from passing the Act, and the Counsel to draw a Clause to that purpose, and *Sir Tho. Millington*, who has desired it, to be included in it. *Ordered* accordingly. On 15 Feb. *Mr. Groundman* being present desires that *Sir Edward Rich's* son (for whom he appears) being equally concerned in this Bill as *Sir Tho. Millington* (who he hears is to be considered in this Bill) may be included with him in it. On 18 Feb. *Mr. Filmer* offers a Clause agreed between the Lord Bishop of Chichester and the Master of the Rolls to be added to the Bill, which is read. *Mr. Conyers* (for the Bishop of Chichester) taking exception to the word "incommode," the Committee will consider it when the Counsel is withdrawn. He offers a Clause relating to the difference between the Bishop and *Sir Richard Holford*, which is read and agreed to with an amendment. *Sir Richard Holford* offers a paper which he desires the Bishop's hand to, but it is not read. Com. Book.]

Annexed:

- (a) 4 Feb.—Petition of John Clements, Gentleman, on behalf of himself and others. Petitioner and others, for whom he is concerned, have an estate and interest in parcel of the ground to which the Bill relates. Pray to be heard before the Bill passes. *Endorsed* as read this day. L. J., XVI. 207.
- (b) 7 Feb.—Affidavit of John Clements, of Symond's Inn, Gentleman, that when Paul Jodrell, Esq., and Deponent renewed the lease of the Inn with John Lake, the late Bishop, on 31 March 1687, when they had begun to rebuild only the front of the Inn next Chancery Lane, the Bishop told Deponent he intended to procure an Act for rebuilding all his houses in and near Chancery Lane, and encouraged Deponent to proceed in rebuilding all the decayed buildings of the Inn; but Deponent objecting to the expense and risk of doing so on a lease for three lives, he promised to grant him as large a term as he could get by the Act, and Deponent, in prospect of this, has spent over 6,000*l.* in improving the premises. *Sworn* this day before John Edisbury. [Read this day in Committee. Com. Book.]
- (c) 10 Feb. Draft Clause as follows: "And whereas one parcel of land in or near Chancery Lane aforesaid, commonly called

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Symond's Inn, part of the inheritance of the said Bishopric of Chichester, is already new built and improved at the charges of the lessees thereof, in expectation of a longer term than the said lessees now have therein; Be it further enacted by the authority aforesaid, That the said Lord Bishop of Chichester and his successors shall and are hereby enabled to renew the lease of Symond's Inn aforesaid for such number of years as is hereinbefore granted, upon such terms as shall be agreed on by and between the said Lord Bishop, or any successor Bishop of Chichester, and the lessees of the premises aforesaid, respect being had to the improvement by them already made." [Read this day in Committee.]

(d) 21 Feb. Lords' Amendments to the Bill. [Made in Committee 18 Feb. (Com. Book) and reported this day. L. J., XVI. 215.]

(e) 21 Feb. Amended draft of Proviso, marked A, stipulating that the new buildings should be built so as not to "annoy [or incommode]" the mansion house and garden of the Master of the Rolls, and agreeing to refer all differences to an amicable arbitration. [Offered in Committee on 18 Feb. by Mr. Filmer; agreed to as amended, Mr. Conyers (for the Bishop) objecting to the word "incommode," and reported this day. Com. Book. L. J., XVI. 215.]

(f) 21 Feb. Amended draft of Clause, marked B, as follows: "And for the better improvement of the several houses and buildings belonging to the said Bishopric situate lying and being in and near Chancery Lane aforesaid Be it further enacted that it shall and may be lawful to and for the said Lord Bp. of Chichester [and] or his successors at any time within the space of two years [from the day this present Act shall pass the Royal Assent] *from and after the 25th March 1698* upon the surrender of any lease or leases for lives of the premises or any part thereof to grant any new lease or leases for years for any term not exceeding one and fifty years reserving double the rent now reserved and made payable for the same and [upon] *paying* such fine or fines as shall be agreed on between the said Ld. Bp. [and] or his successors and such lessees. And* also from time to time every ten years and not oftener to renew all or any the leases to be granted by virtue of this Act and [to make up the term or terms then in being] upon the surrender of the former lease or leases to make up the term one and fifty years and no more reserving the same rent and paying such fine and fines as shall be agreed on between the said Lord Bp. [and] or his successors and the same lessees." [Agreed to, as amended, in Committee 18 Feb. (Com. Book) and reported this day. L. J., XVI. 215.]

1202. Jan. 28. Writ of Summons (L. Dudley and Ward).—Writ of Summons to "Edwardo Dudley de Dudley Castle, Chevalier," dated 25th Jan. 1697-8. [Sat first in Parliament this day as Lord Dudley, after the death of L. Dudley, his grandfather.† L. J., XVI. 204.]

1203. Feb. 7. L. Vaughan (E. Carbery) v. L. Herbert of Cherbury (Privilege).—Petition of John, Lord Vaughan and Earl of Carbery. Petitioner's late father was seized of certain lands in Caermarthenshire

* This paragraph was struck out by the Commons. C. J., XII. 177.

† He succeeded his mother, Baroness Dudley, who died in August 1697.

and elsewhere in South Wales, held under fee-farm rents due to the Crown, which must have been duly paid during his life, as Petitioner for 11 years after his father's death obtained receipts for similar payments from the King's Officers, without any mention of arrears, until 13 April 1634. At the instigation of some busy informer, the Respondent, then Henry Herbert, Esq., procured a grant under the Privy Seal of some old pretended debts and arrears due to the Crown, including all arrears standing on the account of John Nash, Esq., who, as Receiver-General of South Wales in the time of James II, had unjustly returned many persons of that country to be in arrear to the Crown, and had charged among them the heirs of Petitioner's father with 333*l.*, on account of rent pretended to be in arrear before Michaelmas 1670. The grant to Respondent enabling him to sue either in his own name or in that of the Crown, he, through his solicitor John Higgons, procured the Solicitor-General in his Majesty's name to move the Exchequer for process to issue out against Petitioner, and obtained on 27 Nov. last from Mr. Thompson, an officer of the Court, a writ of *Scire facias*, which was served on Petitioner, whose estate has since ordered to be extended. These proceedings, though colourably in his Majesty's name, are for the sole benefit of Respondent, and are a breach of privilege. Prays for relief, and that the persons guilty of the breach of privilege may be punished. *Endorsed* as read this day. L. J., XVI. 208. [On 11 Feb. in Committee for Privileges, to whom this Petition was referred, (E. Rochester in the Chair) Counsel, being called in, were told that they were to speak to the two points which relate to privilege, (1) serving the *Scire facias* upon L. Vaughan, and (2) the suing out an Extent of his estate. *Sir Thomas Powys* (for Petitioner): In Michaelmas term last there was a *Scire facias* granted in the Court of Exchequer, and the same was served on Petitioner in his own house. The Court has since issued an Extent against Petitioner and his estate. Part of the King's grant to L. Herbert of the arrears sued for is read. *Mr. Sloane* (for Petitioner) is heard. *Mr. Attorney General* (for L. Herbert): The nature of a *Scire facias* is but a summons. The L. Vaughan had notice of it. There has never been any complaint of the kind formerly, though the like processes have been frequently issued in time of Parliament. It would be of ill consequence if taxes might not be collected in time of privilege. *Mr. Solicitor-General* (for L. Herbert): In the House of Commons they have resolved that no Commoner has any privilege against any debt to the King. The *Scire facias* is against the heir and executor of the late E. Carbery, and not against the present Lord by name. The Extent is against the lands that were the late E. Carbery's and none other. There has been no disrespect to my Lord. We made often applications to his Lordship before we took a *Scire facias*. *Henry Thompson*, sworn (for L. Vaughan): Says Mr. Higgons came to him for the *Scire facias*. It was against the heirs and executors of the late E. Carbery. Exception being taken by the L. Vaughan's Counsel at the examining John Higgons, who had been sworn on the L. Herbert's behalf, his Lordship waived his examination, but afterwards, on discourse with his Counsel, his Lordship desiring Higgons might be heard, the Counsel were ordered to withdraw. *Mr. Baron Powys* is asked whether a person complained of in any Court can be admitted as an evidence on the subject matter of such complaint. A. We do not usually admit him. Then the Counsel were called in and told Higgons was not to be heard. Then the Counsel, after having been further heard, were ordered to withdraw. After debate, *Mr. Baron Powys* is asked whether privilege has been made use of at any time in the Exchequer

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- 1697-8. against the King. A. We have taken it as a standing rule in the Exchequer that there is no privilege against the King's own proper debts in time of Parliament. Q. Have you ever known privilege insisted on in the Exchequer? A. I never knew privilege insisted on.
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After debate, *Question* put: That the matter complained of in the L. Vaughan's Petition is a breach of his privilege and the privilege of this House. Contents 18; Not-Content 1. Resolved in the *affirmative*. Ordered to report as in L. J., XVI. 213. Priv. Book.

Annexed:—

(a) 18 Feb. Draft report of Committee for Privileges, and Order of the House thereon. L. J., XVI. 213. *In extenso*.

1204. Feb. 7. Hon. J. Bertie and Wife v. V. Falkland and others. Petition and Appeal of Hon. James Bertie and Elizabeth his wife.—The late John Cary, Esq., being seized of lands, &c., in Kent, Lincolnshire and Middlesex, worth £2,000 a year, and having the care of his niece, the Appellant Elizabeth, daughter of the late George, L. Wilmoughby of Parham, treated with Francis, late L. Guilford, then Lord Keeper of the Great Seal, for a marriage between his son Francis, the present L. Guilford, and Elizabeth, both of whom were then infants, with a view, among other things, to prevent her marrying a Papist. In pursuance of this design, Mr. Cary, who had previously devised his estate to Elizabeth without any restriction, made a last Will on 10 Sept. 1685 leaving the estate to Sir William Whiteloeke and others, in trust, after payment of his debts and legacies, for Elizabeth during her life, in case within three years after his death she should marry the said Francis according to the liturgy and practice of the Church of England, and after her death to the children by such marriage, and failing such issue or such marriage within the said term, in trust for Anthony Cary, V. Falkland, during life, and afterwards to his sons successively and their heirs male, and failing such issue in trust similarly for Edward Cary, and then for the right heirs of John Cary. The testator showed this Will to Roger and Dudley North, the brothers of the Lord Keeper, and at their suggestion added a codicil on 20 Sept. 1685 declaring that, in case the marriage took effect before either reached the age of consent, unless confirmed by both parties after such age, Elizabeth should have no benefit of the trust, nor be entitled to any advantage other than she would have had in case the marriage had not taken place, and that his desire was that Lady Wiseman, the Lord Keeper's sister, should have care of her education. The testator died, not doubting that the said marriage would take place, Elizabeth having £1,200 a year lands of inheritance of her own, besides testator's estate. A disagreement arising between the trustees for the two intended parties to the marriage, some suits were commenced in Chancery, wherein Elizabeth was named a party, and she was removed by order of the Court, contrary to her own will, from the care of Lady Wiseman into that of one Mrs. Fiennes. All this while, the present L. Guilford made no application to her for marriage, though she declared her wish to marry him, and his trustees, he being then about 13 years of age, declared their aversion to the match, and he went abroad to travel. Elizabeth, though receiving no overtures from him, remained unmarried for three years after the appointed term had expired, and then married the Appellant. Thereupon, Lucius Henry Cary, V. Falkland, son and heir of Edward Cary, brought a Bill in Chancery to compel Elizabeth's trustees to convey the estate to him, on pretence that she had forfeited her right, and Appellants brought a Cross-Bill for relief. The Causes being heard on 10 February last, the now Lord Chancellor (then Lord Keeper) Somers postponed them for the assistance of the Judges, and his Lordship,

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assisted by Holt, L. C. J., the Master of the Rolls, and Treby, L. C. J., after hearing the Causes on 19 Feb. dismissed Appellants' Cross-Bill, and ordered them to deliver over to V. Falkland such part of the estate as they possessed, and that Sir William and Mr. Grout, the trustees, should convey to V. Falkland all the estate according to the trust. This dismissal is unjust, as depriving Elizabeth and her issue of an inheritance, for a pretended breach of a condition which she was prevented from performing by reason of the Orders in Chancery and the non-compliance of the now Lord Guilford with the intention of his father and her uncle, the testator. Pray that the dismissal may be reversed, and V. Falkland and the trustees ordered to answer. *Signed* by Appellants. *Countersigned* Tho. Powys, B. Shower. L. J., XVI. 208. [At the Hearing on 10 March *Mr. Serjt Wright* and *Sir Bartholomew Shore* were heard for the Appellants and the *Attorney-General* and *Mr. Pooley* for the Respondent (V. Falkland). *Mr. Filmer* was heard for the trustees. They read Mrs. Willoughby's consent to marry Lord Guilford, the consent of the trustees, Mr. North's letters, and Mr. Cary's Will. Mr. Cary's letters were not read, the other side opposing. *Mr Serjt Wright*. We think we have done what is sufficient to save the estate. Here are three things: 1. A Will; 2. An Infant; 3. A Trust. Mr. Cary's intent was to put it as far as he could. He could not compel Lord Guilford to marry her. Mr. Cary's intent of kindness to this lady is proved. He instances the case of mortgages—If a man is robbed on his way to pay the money, or die, in law he is to lose his lands, but in equity is relief. Wallis, case against Grimes, fol. 89. *Sir Bartholomew Shore* heard also. *Mr. Attorney-General* (for Respondents). The case is this—Mr. Cary owned the estate: By his Will he devised it to pay his debts and legacies in three years: After this done, then the trustees shall be seized in trust for Mrs. Willoughby, in case she marry Lord Guilford, for life, and if issue male, then to them, but if no issue male nor marriage, then to Lord Falkland; and to strengthen this Will he adds a codicil.

Now we are before this House upon this Will which of [them] is entitled to the estate: They agree there was no marriage and that the lady was married before Lord Guilford. The question [is] whether she is entitled, contrary to the express words of the Will, or Lord Falkland by the Will. They would have your Lordships make a Will for Mr. Cary, and not consider whether this was his Will or not: They bring proofs of matters precedent to this Will, which are not material: This Will must be the foundation of the judgment: This is his last Will and there is no other, nor do they say there is. This Will is good in law and legally signed, and no precedent discourses can overthrow it. Mrs. Willoughby, they say, was willing and did what she could, and this was fulfilling Mr. Cary's Will. They propose Lord Guilford was willing to marry upon Mr. Cary's proposals: She says she will advise on it: Lord Guilford's trustees took this to be a denial, and they stay till he is of age. My Lord Guilford's trustees could not comply with the trustees of Mrs. Willoughby, they not being according to the Will. If Lord Guilford had married, he had had only her estate for life.

This was imposing such terms as the Lord Guilford could not do. She marries, which made it incapable for my Lord Guilford to have her. Then they got these Orders, to give this marriage a countenance, as the Bill in Chancery will set it out. There is not one word in the Bill concerning the marriage. The Order is against her, and she could not be come at but when all was agreed to. But this is nothing to us: We did not obtain this Order. He was not privy to it. The other Order, that is in no cause at all; that [is] upon a petition and there is an Injunction

1697-8. also.—Nobody to come at her till the proposals are agreed to. If she
 — had been ready, on the terms of the Will, and the Lord Guilford had
 No. 1204. not complied, then here had been no pretence for her to have the estate:
 The codicil declares it to be so far his intention that though they do
 marry, yet if either refuse at the years of consent she shall not have
 the estate: Nothing can be more plain than this: It is impossible to
 imagine any intention to the alteration of these words. If they think
 you are to make another Will for Mr. Cary, they have hopes—for this is
 as plain as words can express—if in this case they go from words which
 are plain to a new intention. He cites the cases mentioned on the other
 side. The ease of mortgages. If you can take away the estate, I know
 not what you can give us for it: There is no pretence of an estate for life
 to her (illegible) They would have you say the limitation over shall
 not be good. He cites Horner's case cited by them. Fry and Porter's
 case. *Mr. Pooley* heard also. They admit a decree offered to be read
 that it was for an account. After hearing the other Counsel the House
 went into a debate of the matter, and ordered the judges to be
 summoned for the next sitting.

On 16 March it was proposed to consider whether any relief at all
 [should be given].

Precedents cited to this purpose:—

16 March 1695 Graham.

8 July 78 Feversham *v.* Watson.

5 July 78 Whiehcott *v.* Darrell.

9 March 1667 Morley *v.* Elweys.

(In margin Walrond, Bampffield.)

The books were sent for and the precedents read. The *question* was
 proposed—whether the Appellants shall have any relief in this case.
 Previous question put “Whether this question shall be now put?”
 Resolved in the *affirmative* (contents 59, not contents 33). Then the
main question put and resolved in the *affirmative*. Moved that the
 Appellant, Mrs. Bertie, may have the estate for life. Debate
 adjourned.

On 17 March the debate was resumed. *E. Abingdon* proposes that
 he will endeavour (?) his son to make him an honourable allowance for
 his education. MS. Min. After debate the *question* was put, whether
 the relief this House will give the Appellants shall be that they shall
 enjoy Mr. Cary's estate during Mrs. Bertie's life? Resolved in the
affirmative. L. J., XVI. 237. Thirteen Peers protested against this
 decision.

The *Lord Chancellor* then informed the House of a paper entitled,
 “An abstract or state of the matters of fact in Mr. Bertie's case” &c.,
 in which were reflections on the Court of Chancery, and the House
 having resolved that it was a false, malicious, and scandalous libel, and
 should be burnt by the common hangman, ordered the printer to attend,
 and appointed a Committee to decide what should be done. *Ib.* 238.

The Committee met on 18 March, and having examined John Leake,
 the printer, made a report of their proceedings, which appears in
 L. J., XVI. 240. The *Lord Chancellor* declared that he would be
 satisfied with whatever the House should think fit, though never so
 gentle. The *E. Abingdon* declared that he had carried his son to
 the Lord Chancellor to ask his pardon, and was ready he should
 do it in a more public manner if he could come at it in the
 House he is in. The printer was called in and sworn, and shown the
 libel. Asked who brought him the paper to print it by, answers,
 “Mr. Robert Bertie.” Ordered that he be taken into custody of the

Gentleman Usher of the Black Rod. MS. Min.. Then a message was sent to the Commons for leave for Mr. Bertie to appear before their Lordships. L. J., XVI. 240. For the answer of the Commons see Annex (*d*) below. 1697-8.
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On 21 March the Lord Chief Baron and Mr. Justice Nevill, in accordance with an Order of the 20th, delivered a draft of the judgment of the House in the Cause, which was agreed to. *Ib.* 241-2 *in extenso*.

On 23 March the Commons desired a conference on the subject of Mr. Bertie, which was held on the following day. *Ib.* 244, 246.

On 26 March *E. Abingdon* in his place asked pardon of the House in his son's name, and of the Lord Chancellor for his son's offence. *Ib.* 247. This was granted, and the paper ordered to be burned by the common hangman. *Ib.* 248.

Annexed:—

(*a*) 21 Feb. 1697. Answer of the Right Hon. Lucius Henry Cary, Viscount Falkland, of the kingdom of Scotland. The Appellant is great niece and collateral heir-at-law to the testator John Cary, namely, his sister's son's daughter. The testator derived great part of his estate from the late Lady B , aunt of the late Lord Keeper North, and on that account entertained great affection for the North family, and promoted the match in question, postponing in favour of Elizabeth his next kinsmen, Anthony Cary, late V. Falkland, and Edward Cary. To bring about the marriage, he invited her, when very young, from her grandmother, Lady Fiennes, and took charge of her at his own house. He died on 18th October 1685, after making the Will and codicil referred to, Elizabeth then being 12 years and a half old, and the now L. Guilford three months younger. Edward Cary died in August 1692, leaving Respondent his only son and heir, and in May 1694 Anthony, V. Falkland, died, leaving no male issue, after whose death Respondent, being next in remainder by the Will, became entitled to John Cary's estate, the marriage, which was a condition precedent to be performed before the limitation of the trust to Elizabeth, not having been solemnized within the time appointed. The performance of this condition required the mutual consent of both parties to the proposed marriage, and not the single consent of one of them. Moreover, Elizabeth's alleged consent was only artificial and colourable, and though she declared the same in discourse, it was to her servants only, and to such persons as were not concerned in the marriage or guardianship of either party, soon after John Cary's death, when the now Lord Guilford's guardians, with his consent, proposed that the marriage should be solemnized, she being then of the age of consent. The guardians renewed the offer, on his behalf, when he reached the age in 1687, but Elizabeth and her friends then capitulated on new matter foreign to the Will, and insisted on such a settlement of his estate as they could not comply with, pretending that she was under restraint of the Court of Chancery. Prays that the Appeal may be dismissed. *Signed* Hen. Poley. *Endorsed* as brought in this day.

(*b*) 26 Feb. Answer of Sir William Whitelocke, Knt. Respondent was an intimate acquaintance of the testator, and the nearest kinsman of Elizabeth, and as such was made trustee, but he never received or intermeddled with the profits of the estate, and

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was not intended to do so, and was discharged from any account concerning the estate by order of the Court of Chancery after testator's death. Believes he was appointed as a trustee merely to see that the other trustee, Grout, whom the testator had employed for twenty years to receive and apply the rents and profits of his estate, performed his duty in regard to the trust. This he did, and the Will having directed the accounts to be taken yearly in the Chancery, Respondent caused several Bills to be brought in the name and on behalf of Elizabeth, during her infancy and soon after testator died, to have an execution and performance of the trust directed by the Court, and the guardianship undertaken, and the marriage effected, the result of which was that several Orders were made. Lady Wiseman, to whom the care of Elizabeth had been recommended by testator, refused after his death to provide any longer for her. Respondent has performed the trust to the best of his judgment and by the advice of the most eminent counsel, and submits himself, as to his further duty, to the directions of the House. *Signed* by Respondent. *Countersigned* Tho. Filmer. *Endorsed* as brought in this day.

(c) 26 Feb. Answer of John Grout.—Respondent was formerly a servant to the testator, and has duly managed the trust estate to the best of his skill, and accounted yearly for the same in the Court of Chancery. Elizabeth shewed great readiness and was willing to have married the present Lord Guilford, and Respondent gave evidence to that effect in the Court below. *Signed* by Respondent. *Countersigned* Tho. Filmer. *Endorsed* as brought in this day.

(d) 24 March. Commons' Answer to the Lords' Message for Mr. Bertie to attend them in reference to an alleged libel on the Lord Chancellor. C. J., XII. 175. *In extenso*. *Endorsed* as received at a Conference this day. L. J., XVI. 246.

1205. Feb. 7.—Howard and another, Exeutors of Countess of Portland, v. Marquess of Douglas.—Petition and Appeal of Henry Howard and Henry Hordessnell. The late Countess of Portland, wanting money, gave a bill of sale on 29 July 1693 to one Christopher Ross for a breast jewel containing 51 diamonds, in return for 500*l.*, the jewel to be redeemable for 510*l.* on the 21st November following. About that time the Countess died, being seized of a considerable real and personal estate, and by her Will, of 21 Sept. 1692, bequeathed all her property to Petitioners, her Executors, upon trust to pay her debts and legacies. By a codicil, dated 9 March 1693, she left to Respondent the diamond jewel, and declared that if her estate should fail to satisfy all her legatees, they should bear abatement in proportion to their legacies. Petitioners having proved the Will and codicil, Respondent brought a Bill in Chancery to compel them to pay the 500*l.* and interest to Ross, and deliver up the jewel. Petitioners pleaded that the bill of sale was absolute, and that the jewel was sold, the time of redemption having passed before the codicil was made, and that the estate, moreover, was insufficient to discharge all the legacies. Respondent's father-in-law, the Earl of Lothian, having paid Ross 582*l.* 7*s.* 2*d.* and costs of suit, redeemed the jewel, which was delivered to him for Respondent's use, subject to the Order of Court. On 16 April 1697 the L. Keeper ordered Petitioners to pay to Alexander Stephenson, who has a Letter of Attorney from Respondent, the said sum paid to Ross. Pray that this Deeree may be reversed and

Respondent ordered to answer. *Signed* by Appellants. *Countersigned* Tho. Jenner, C. Whitelocke. L. J., XVI. 208. [At the Hearing on 21 March *Mr. Serjeant Wright* and *Mr. Filmer* were heard for the Appellants and *Mr. Crawford* and *Mr. Solicitor* for the Respondents. MS. Min. Appeal dismissed. L. J., XVI. 242.]

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Annexed:—

(a) 28 Feb. Answer of James, Lord Marquess of Douglas. The Countess died before the time for redemption, and Appellants refused to pay Ross and so redeem the jewel. An Order of the Court sanctioned E. Lothian's payment to Ross, who pressed for his money. Prays that the Appeal may be dismissed with costs as vexatious. *Signed* by Respondent. *Endorsed* as brought in this day.

1206. Feb. 9. Writ of Summons (E. Burlington). Writ of Summons to Charles, Earl of Burlington. *Dated* 25 Jan. 1697-8. [Sat first in Parliament this day, after the death of his grandfather. L. J., XVI. 209.]

1207. Feb. 9. The King *v.* Greepe (In Error). Copy Writ of Error and Transcript of Record, brought in this day. L. J., XVI. 209. An Information had been lodged against Richard Greepe for perjury in a suit between Rickards and Cornforth. At the trial of this suit, which took place in 1696, a lease executed by Christopher, Duke of Albemarle, on the 16th of July 1681, of which Edward Strode proved the execution, was produced. Greepe swore that Strode was at Newnham in Devonshire all the middle of July, and could not therefore have witnessed the signing of the document. The Crown prosecuted Greepe for perjury. The jury found that Greepe was guilty, but the Court decided that the Information was erroneous and not sufficient in law to justify any action against him. Greepe was therefore ordered to be dismissed. Whereupon the Attorney-General complained that there was a visible error in the aforesaid judgment, and appeal was allowed to the House of Lords.

[Counsel were heard on 12 March. *Sir Bartholomew Shore* and *Mr. Northey* for the Plaintiff, *Mr. Serjeant Wright* for the Defendant. He cites cases. *Mr. Shore* heard also for the Defendant. MS. Min. The House decided that the Information and verdict of the jury in the former case against Greepe were sufficient in law to warrant judgment against him, and therefore reversed the judgment appealed against, and allowed costs to the Crown. Greepe was also condemned to pay a fine of 5*l.* and to stand in the pillory. L. J., XVI. 233.]

1208. Feb. 9. Sir B. Godwin *v.* Berry.—Petition and Appeal of Sir Benjamin Godwin, Bart. Petitioner in July 1693 employed the Respondent Berry, a carpenter, to finish six houses in St. Andrew's parish, Holborn, and agreed to pay him 350*l.* if they were made fit and tenantable by the 10th of the following September. Berry failed to carry out the contract, and after receiving about 250*l.* and 40*l.* in materials, besides causing Petitioner to pay about 80*l.* more to workmen, which he promised to allow, withdrew in December, leaving the houses unfinished. Berry, finding he could not fulfil the articles or stay any longer, assigned them to the other Respondent Bowen, who demanded payment from Petitioner, and Berry, confederating with him, brought a Bill in Chancery. The Master of the Rolls on 16 June 1695 ordered a trial at law as to how much Petitioner was damnified, and the jury, acting on a pretended award made before by some workmen who were friends of Respondents, and only having

- 1697-8. viewed three of the houses, found 16*l.* damages. On this verdict the Master of the Rolls on 4 August 1696 decreed Petitioner to pay principal, interest and costs. The Master refused to allow him anything but what he had actually paid Berry, to the exclusion of what Berry had promised to allow him. The decree was confirmed on 12 Nov. last by the Lord Chancellor. Prays that the decrees may be reversed, and Respondents ordered to answer. *Signed* by Appellant; *Countersigned* Joseph Moxon, Law: Carter. L. J., XVI. 209. [At the Hearing on 3 March *Mr. Serjeant Wright* said the Appellant desired to withdraw the Appeal. *Sir Thomas Powys*. We hope we shall have costs. *Mr. Serjeant Wright* opened the case for the Appellants. Then *Sir Thomas Powys* and *Sir Bartholomew Shore* heard for the Respondents. The award read. *Sir Benjamin Godwin* heard for himself. *Mr. Serjeant Wright* then declared that he did not advise in the Cause before, having never heard of it till that day. MS. Min. The Appeal was dismissed with 20*l.* costs. L. J., XVI. 224.]

Annexed:—

(a) 23 Feb. Answer of John Berry and Rice Bowen. Berry finished the houses except in some small matters, and for want of due payment fell into trouble. He owed Bowen nearly 100*l.* for building materials, and, as 109*l.* still remained due to him on the articles, he assigned them to Bowen, who offered to finish the work, but was refused by Appellant. The award of 16*l.*, which Appellant refused to accept, was made by two persons named Gregory and Phillips, to whom it was stipulated to refer any differences. Appellant, who stands committed to the Fleet prison for contempt, has brought his Appeal merely for delay. Pray that it may be dismissed with costs. *Signed* by Respondents; *Countersigned* W. Barnestry. *Endorsed* as brought in this day.

(b) 2 March. Petition of Appellant for a further day for hearing. [Read this day and rejected. MS. Min. No entry in L. J.]

1209. Feb. 10. Hare's Estate Act.—Amended Draft of an Act for the better enabling Sir Ralph Hare, Baronet, to make a jointure and settle his estate and raise portions and maintenances for his younger children. The amendments in both Houses are of a formal character.

[Read 1^a this day. L. J., XVI. 210. On 14 Feb. a Petition of Thomas Barrow, Susan, his wife, and Alice Hare, praying to be heard by Counsel before the Bill is read a second time, is read. (See Annex (a) below). On 19 Feb., Counsel having been heard for the Petitioners, the Bill was ordered to lie on the Table until the parties agreed. L. J., XVI. 214. In Committee on 14 March the Petitioners consented to the Bill provided there were a saving of their right. Com. Book. Royal Assent 2 April. L. J., XVI. 256. 10 Will. III. c. 33 in Long Cal.]

Annexed:—

(a) 14 Feb. Petition of Thomas Barrow, Gent., Susan, his Wife, and Alice Hare, Spinster, her sister. Petitioners have interests and demands for annuities on the estates in question, and have applied in vain to Lady Hare, mother and guardian of the infant Sir Ralph Hare, for payment of arrears. Pray to be heard by Counsel before the Bill be read a second time. L. J., XVI. 210.

(b) 11 March. Consent of Thomas Barrow and Alice Hare to the passing of the Bill. *Dated* 4 March 1697-8. *Addressed* to Mr. Johnson [Clerk of the Parliaments]. See L. J., XVI. 231.

- (c) 18 March. Lords' Amendments to the Bill. [Made in Committee, March 14 and 16. Com. Book. Reported this day. L. J., XVI. 240.] 1697-8.

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1210. Feb. 14. Gardiner's Estate Act.—Amended Draft of an Act to rectify a mistake in the marriage settlement of William Gardiner, Esquire. The Lords' amendments are to add a new Clause and a new paragraph. (*See below*). The Bill was not amended in the Commons. [Read 1^a this day; Royal Assent 2 April. L. J., XVI. 211, 256. 10 Will. III. c. 26 in Long Cal.]

Annexed :—

- (a) 26 Feb. Lords' Amendments to the Bill. [Made in Committee and reported this day. Com. Book. L. J., XVI. 219.]
(b) 26 Feb. Amended Paragraph, beginning ("then to the use and behoof of the said Thomas Horde") and ending ("said term of five hundred years then"). [Added in Committee and reported this day. Com. Book. L. J., XVI. 219.]
(c) 26 Feb. Amended Clause, beginning ("As for and concerning") and ending ("in any wise notwithstanding"). [Added in Committee, immediately before the saving Clause, and reported this day. Com. Book. L. J., XVI. 219.]

1211. Feb. 16. Hall's Estate Act.—Amended Draft of an Act for settling the Estate of John Hall, a Lunatic, subject to a debt charged thereon. The Lords' amendments are of a formal character. No amendments in the Commons. [Read 1^a this day; Royal Assent 2 April. L. J., XVI. 212, 256. 10 Will. III. c. 28 in Long Cal.]

Annexed :—

- (a) 1 March. Consent of Gilbert Parke, Committee of the Lunatic, to the passing of the Bill. *Attested* by Tobias Mills and Ralph Carr. [Read this day in Committee. Com. Book.]
(b) 1 March. Lords' Amendments to the Bill. [Made in Committee and reported this day. Com. Book. L. J., XVI. 222.]

1212. Feb. 18. L. Fairfax v. E. Derby—Petition of Charles, Lord Fairfax, Viscount Emuli [Emley] in the Kingdom of Ireland, and of Colonel Ralph Widdrington. William Stanley, Esq., deceased in April 1691, bequeathed by his Will all his estate to pay his debts and legacies, and made William, Lord Widdrington, his sole executor, who proved the Will in Chancery, examined his witnesses, and made the Earl of Derby a party. The latter, who pretends to be Stanley's heir-at-law, then brought his Bill in Chancery against L. Widdrington, and made the witnesses to the Will parties, whose evidence, however, satisfied him as to the due execution of the Will, and his Bill was dismissed. L. Widdrington made his Will in March, 1694, and died, leaving Petitioners his executors to sell Stanley's estate to pay his debts and legacies. Petitioners have accordingly contracted with purchasers, but the latter refuse to proceed until satisfied of the due execution of the Will. Petitioners, being devisees of L. Widdrington, could not revive the former proceedings in 1691, so as to publish the Depositions, but were forced to bring in a new Bill to prove the Will, and the House, on 18 March last, ordered E. Derby to waive his privilege to enable Petitioners to effect their purpose. Petitioners have since proved the Will, but on proceeding to publish the Depositions, to satisfy the purchasers, have been stopped by the Earl's insisting on privilege. The E. Derby owes Stanley and his estate above 11,500*l.*, pursuant to a Deeree in 1688, and has not yet paid a farthing. Pray that the Earl may waive his privilege so far as to enable

- 1697-8. Petitioners to publish the Depositions and thus sell the estate. [Read this day. L. J., XVI. 212. On 5 May 1698 the House being informed
 — No. 1212. “that the petitioner and the Earl of Derby had agreed upon an Order to “be entered in their books, if the House think fit and allow thereof,” the House agreed and directed the Order to be entered. *Ib.* 274-5. *In extenso.*]

Annexed:—

- (a) 23 March 1697-8. Answer of the Right Honourable William, Earl of Derby. Respondent is heir male and heir-at-law to William Stanley, and as such elaims his estate. The pretended Will was surreptitiously obtained from Stanley, when on his death bed in a high fever, and when he was either *non compos mentis* or very weak in his judgment, and imposed upon by many Papists and evil persons then about him, who prevailed upon him to turn Papist, and then obtained the Will distributing his estate among Papists and strangers and giving legacies to several of the witnesses. Respondent consented to waive his privilege so far as to enable the Petitioners to examine their witnesses *in perpetuam rei memoriam*, which has since been done; but Petitioners, taking advantage of Respondent's being in the country, lately petitioned the Master of the Rolls that publication might pass of the Depositions, and the case might come to a hearing before Respondent's witnesses against them are examined, which cannot be done after publication. Prays leave to insist on his privilege. L. J., XVI. 244.

1213. Feb. 19. E. Kent's Privilege (T. Lucas).—Petition of Anthony, Earl of Kent. Thomas Lucas, of Goodrich in the County of Hereford, is Petitioner's bailiff of the Manor of Goodrich there, and, as Petitioner's bailiff, summons Juries, attends Courts, (which are held once in every three weeks for trying of Causes) and also collects all fines and amercements set and escheated at the Grand Leets which are held twice in every year. The said Thomas Lucas was on 22 November last arrested at the suit of Thomas Fletcher (who knew the said Lucas to be Petitioner's bailiff) in an action of trespass, and carried to Hereford gaol and detained there six days, contrary to the privilege of Parliament. Edward Catchmayd went to Hereford when the said Thomas Lucas was a prisoner there at Fletcher's suit, and there was informed that Thomas Belhier was the attorney's name to the Writ, and also saw his name so entered in the Sheriff's book as attorney. Prays that the offenders may be punished as is usual in like cases.

[Read this day. The facts being stated on oath at the Bar by Catchmayd, an Order was made for the arrest of Fletcher and Belhier. MS. Min. L. J., XVI. 213. On 23 March they were discharged without paying fees. *Ib.* 244.]

Annexed:—

- (a) Affidavit of Edward Catchmayd, clerk to Walter Roberts, of Ross, co. Hereford, deposing to facts stated in above Petition. Sworn 21 Feb. 1697-8 before S. Keck.
- (b) Certificate of Thomas Vaughan, Recorder of the Court of the Manor of Goodrich, and of the Court of the Manor or Hundred of Wormelow, stating the duties of Lucas, as sworn bailiff of the said Courts, as follows:—

The office of the bailiff of the Rt. Hon. Anthony, Earl of Kent, of his Manor or lordship of Goodrich in the County of Hereford, being an ancient demesne Manor of the Crown of

England, and what belongs to the bailiff of the said Manor to do and execute by virtue of the said office:— 1697-8.

He is bailiff of the said Manor of Goodrich and minister of the Court of the said Manor, and by virtue of his said office always attends the said Court, which Court cannot be held in his absence, unless a new bailiff be sworn in his place. He executes all precepts issuing out of the said Court, of what nature soever. He gives possession by virtue of precepts *de here fac. seisinam* upon all recoveries by virtue of the King's Writ for docking of entails upon remainders upon lands and tenements held of the same Manor. And likewise upon recoveries by virtue of his Majesty's Writs of Right Close upon trial between party and party of titles of all lands held of the said Manor, and he gives in like manner possession upon trials of copyhold lands held of the said Manor by *Majus Jus*. He is keeper of the prison of the said Manor to keep all prisoners committed to prison by the Court of the said Manor, and likewise by the Court of the said Earl of his Manor or Hundred of Wormelow in the said County for any Cause whatsoever happening in the said Court, and is likewise keeper of the Pound there at the Castle of Goodrich for keeping all cattle taken in the said Manor of Goodrich, and in like manner in the said Manor or Hundred of Wormelow, for damage feasant, distress, or for rent upon executions issuing out of both the said Courts, being the proper Pound of the said Manor of Goodrich and of the said Manor or Hundred of Wormelow, and is properly deputy Constable of the said Earl of his Castle of Goodrich aforesaid.

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Thomas Lucas is now the sworn bailiff of the said Earl of his Manor of Goodrich, and is bound by his oath and office to execute those offices above specified in the said Manor of Goodrich and Manor or Hundred of Wormelow, and hath continued in and executed those offices for divers years now last past.

Moreover the bailiff of the said Manor of Goodrich collects and gathers all estreats, fines, amerciaments, heriots and other forfeitures and perquisites of courts happening to the lord of the said Manor within the said Manor of Goodrich—and it belongs to the said office to collect and gather in like manner all chief rents there to and for the use of the said Earl, lord of the said Manor. And the said bailiff hath and receives a certain salary by the pound for all such collections, according to the usage and custom of the said Manor of Goodrich. *Dated* 25 February 1697.

1214. Feb. 21. Walrond's Estate Act.—Amended Draft of an Act to enable Humphrey Walrond, Gent., to sell part of his Estate for the making provision for his eldest son and Elizabeth, his daughter, who are lunatics, the payment of his debts, and raising portions for his other children. The Lords' amendments are of a formal character. In the Commons the name of the daughter of Thomas Walrond was inserted. [Read 1^a this day; Royal Assent 5 July. L. J., XVI. 215, 344. 10 Will. III. c. 103 in Long Cal.]

Annexed:—

(a) 7 June. Lords' Amendments to the Bill. [Made in Committee May 5 and June 7 and reported this day. Com. Book. L. J., XVI. 311.]

1215. Feb. 23. Bone Lace Act.—Petition of several retailers of Bone Lace, Needle-work, Point and Cut-work, in the name of themselves

- 1697-8. and many more retailers in those goods within the Cities of London and Westminster and Liberties thereof. The Bill for the more effectual prohibition of foreign Bone Lace, Needle-work, Point, and Cut-work will, if passed in its present form, prove the ruin of Petitioners, whilst trading in English lace, by requiring (when their goods are seized) such proofs as neither themselves, much less their executors or administrators, can be able to make. Pray to be heard by Counsel against some clauses. *Signed* by Francis Cooper and 71 others, L. J., XVI. 216. [The Bill was brought from the Commons on 21 Feb. *Ib.* 215. In C. W. H. on 25 Feb. *Sir Bartholomew Shore* and *Mr. Northey* were heard for Petitioners and *Mr. Gardiner* was heard for the Bill, which was passed without amendment and received the Royal Assent on 7 March. MS. Min. L. J., XVI. 228. 9 Will III. c. 9., Fol. Ed.]
- No. 1215.

1216. Feb. 23. Woollen Manufactures Bill.—Commons' Engrossment of an Act to encourage the Woollen Manufacture in England, and to restrain the exportation of woollen manufactures from Ireland into any foreign parts, and for the better preventing the exportation of wool from England and Ireland.

§ i. Forasmuch as wool and the woollen manufactures of cloth, serge, bayes, kerseys, and other stuffs made or mixed with wool, are the greatest and most profitable commodities of this Kingdom, on which the value of lands and the trade of the nation do chiefly depend; And whereas great quantities of the like manufactures have of late been made, and are daily increased, in the Kingdom of Ireland, and are exported from thence to foreign markets, heretofore supplied from England, which will inevitably sink the value of lands and tend to the ruin of the trade and the woollen manufactures of this Realm; For the prevention whereof, and for the encouragement of the woollen manufactures within this Kingdom, Be it enacted &c., That no person or persons whatsoever, from and after the four and twentieth day of June in the year of our Lord one thousand, six hundred, ninety eight, shall directly or indirectly export, transport, ship off, carry or convey, or cause or procure to be exported, transported, shipped off, carried or conveyed out of or from the said Kingdom of Ireland into any foreign realms, states or dominions, or into any parts or places whatsoever, other than the ports within the Kingdom of England or the Dominion of Wales, any the wool, wool-fells, shortlings, mortlings, wool-flocks, worsted bay or woollen yarn, cloth, serge, bayes, kerseys, says, friezes, druggets, cloth serges, shaloons or any other drapery, stuffs, or woollen manufactures whatsoever, made up or mixed with wool or wool-flocks, or shall directly or indirectly load or cause to be loaden upon any horse, cart or other carriage, or lade or lay on board, or cause to be laden or laid on board in any ship or vessel in any place or port within or belonging to the said Kingdom of Ireland, any such wool, wool-fells, shortlings, mortlings, wool-flocks, worsted bay or woollen yarn, cloth, bayes, kerseys, serges, says, friezes, druggets, cloth serges, shaloons or any other drapery or woollen manufactures, to the intent or purpose to export, transport, ship off, carry or convey the same, or cause the same to be exported, transported, shipped off, carried or conveyed out of the said Kingdom of Ireland, or out of any port or place belonging to the same, or with intent or purpose that any person or persons whatsoever should so export, transport, ship off, carry or convey the same out of the said Kingdom of Ireland into any ports or places except as aforesaid.

§ ii. And be it enacted by the authority aforesaid, That all and every the offender and offenders, offence and offences aforesaid, shall be subject

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and liable to the respective pains, penalties and forfeitures hereafter following (that is to say) the said wool, wool-fells, shortlings, mortlings, wool-flocks, worsted bay or woollen yarn, cloth, serge, bayes, kerseys, says, friezes, druggets, cloth serge, shaloons or any other draperies stuffs, or any other manufactures made of or mixed with wool or wool-flocks, so exported, transported, shipped off or carried, conveyed or loaden, contrary to the true intent and meaning of this Act, shall be forfeited, and that every the offender and offenders therein shall likewise forfeit five hundred pounds for every such offence, and all and every ship, vessel, barge, boat or other bottom whatsoever, wherein any of the said commodities are or shall be shipped or laid on board, contrary to the true intent and meaning of this Act, shall be forfeited, with all her tackle, apparel and furniture, to them and every of them belonging, and the masters and mariners thereof, or any porters, carriers, waggoners, boatmen or other persons whatsoever knowing such offence and wittingly aiding and assisting therein, shall forfeit the sum of forty pounds and suffer imprisonment for the same during the space of three months, without bail or mainprise, and until payment be made of the aforesaid forfeiture of forty pounds, of which said penalties and forfeitures one moiety shall be to him or them that shall sue for the same by Bill, Plaint or Information in any of his Majesty's Courts of Record in England or Ireland, and the other moiety to the encouragement of setting up the linen manufactures in Ireland, to be disposed of by the Court of Exchequer there for that use only, in which suit no essoign, protection or wager of law or more than one imparlance shall be allowed.

§ iii. And to prevent evading the penalties of this Act by pretences of prosecution or acquittals in Ireland, Be it enacted by the authority aforesaid, That no Acquittal, nor any Indictment, Information or Suit (unless the offender be thereupon convicted) in Ireland for any offence provided against in this Act shall be pleaded or allowed in bar or delay of any Indictment, Information, Suit or Prosecution within the Kingdom of England.

§ iv. And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for any person or persons to seize, take and challenge, to the uses aforesaid, all such wool, wool-fells, shortlings, mortlings, wool-flocks, worsted bay or woollen yarn, cloth, serges, bayes, kerseys, says, friezes, druggets, cloth serges, shaloons, stuffs and other draperies and woollen manufactures, or mixed with wool or wool-flocks, as he or they shall happen to see, find, know or discover to be laid on board in any ship, vessel or boat, or to be brought, carried or laid on shore at or near the sea or any navigable river or water, to the intent or purpose to be exported or conveyed out of the said Kingdom of Ireland, contrary to the true meaning of this Act, or to be loaden upon any horse, cart or other carriage, to the intent or purpose to be exported, conveyed or carried into any foreign parts or places, contrary to the true intent and meaning hereof; and also that it shall and may be lawful to and for any person or persons to seize, take and challenge, to and for the uses aforesaid, all and every ship, hulk, vessel, barge or boat, of what kind soever or wheresoever found or discovered, wherein any of the aforesaid commodities shall happen to be shipped or put on board contrary to the true intent and meaning of this Act, and that such person or persons that shall happen so to seize, take or challenge any of the commodities aforesaid, or any such ship, vessel, hulk, barge or boat as aforesaid, shall have one moiety thereof to all intents and purposes.

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§ v. And be it further enacted by the authority aforesaid, That for every ship or vessel which, from and after the said four and twentieth day of June, shall set out and sail from the said Kingdom of Ireland, in order to export or carry off any of the commodities aforesaid to this Kingdom, bond shall be given by two sufficient persons, known inhabitants of, and residing in or near, the place where the bond is or shall be given, to the Chief Officer of the Customs belonging to the said port or place in the said Kingdom of Ireland from whence the said ship or vessel shall set sail, in double the value of any the aforesaid goods intended to be transported as aforesaid, before the said ship or vessel shall be permitted to lade on board any of the commodities aforesaid, with condition that if the said ship or vessel shall lade or take on board any of the said goods in the Kingdom of Ireland, that then and in such case all the said goods shall be brought by the same ship or vessel to some port or ports within the Kingdom of England or the Dominion of Wales as aforesaid, and shall there unlade or put on shore the same, and pay the custom and duties thereof (the danger of the seas only excepted), and that every ship or vessel which shall lade or take on board any of the said goods until such bond be given shall be forfeited with her guns, apparel, tackle and furniture, to be recovered and employed in manner aforesaid.

§ vi. And for the more effectual execution of the powers granted by this Act, Be it enacted by the authority aforesaid, That a register be kept at the Custom-house in London of all the aforesaid goods from time to time imported from Ireland into any of the ports within this Kingdom or [the] Dominion of Wales, with the particular qualities and quantities thereof, the master and owners' names, and to whom consigned.

§ vii. And be it further enacted by the authority aforesaid, That all cocketts and warrants for the carrying or transporting of any of the aforesaid goods from the Kingdom of Ireland to any port or ports aforesaid within this Kingdom shall be written upon paper and not upon parchment, and signed by three of the Chief Officers of such respective port at least, and all certificates of landing the same in any the ports aforesaid within this Kingdom or [the] Dominion of Wales shall be signed in like manner; and that all the goods aforesaid, both at shipping and landing, shall be viewed and examined by the Surveyor, Searcher, or Land Waiter attending the shipping or discharge of any the aforesaid goods, and that the exact quantities and qualities, marks, and numbers of the goods aforesaid, so shipped in Ireland, shall be particularly expressed and endorsed upon the cockett by which the said goods are or were to be shipped, and likewise upon the warrant for landing the same in England, and also upon the certificate or certificates given or to be given for discharging the bond or bonds taken in Ireland for the same.

§ viii. And be it further enacted by the authority aforesaid, That the Commissioners or Farmers of the Customs of the Kingdom of Ireland for the time being shall from time to time and at all times hereafter, once within every six months, or within one and twenty days after the end thereof, transmit or cause to be transmitted unto the Commissioners or Farmers of his Majesty's Customs in England, of all such goods as aforesaid as shall from time to time be exported from the said Kingdom of Ireland, the qualities and quantities thereof and duplicates of the bonds taken for lading the same, and by whom and in what ships exported, and where and to what port in the Kingdom of England or Dominion of Wales consigned, and the names of the persons signing the certificates of the landing the same in England, and the date of the

said certificates, and where the same was or were laden, as also of the qualities and quantities, marks and numbers contained in the said certificates, in order that the same may be compared with the registered account appointed by this Act to be kept by the Commissioners or Farmers of the Customs of this Kingdom.

§ ix. And for preventing the mischiefs of razing, obliterating or interlining such certificates as aforesaid, Be it enacted by the authority aforesaid, That all such certificates shall be written upon paper and not parchment, and that the quantities and qualities, marks and numbers therein expressed shall not be obliterated or interlined upon any pretence whatsoever.

§ x. And be it further enacted by the authority aforesaid, That all such goods as aforesaid as shall from time to time be exported from the said Kingdom of Ireland into the ports of this Kingdom or [the] Dominion of Wales, in manner as aforesaid, shall be shipped off and entered at the ports of Dublin, Kingsale, Waterford, Cork, Wexford, Drogheda, Carlingford, Galloway, Belfast, Carrickfergus, Londonderry or Youghal, in the said Kingdom of Ireland, and at or from no other port or place within the said Kingdom, anything in this Act to the contrary thereof in anywise notwithstanding.

§ xi. And to the intent or purpose that this Act may more effectually be put in execution for preventing the growing mischiefs that daily do or may arise to this Kingdom from the exportation of such goods as aforesaid, or any of them, out of the Kingdom of Ireland, should the same still be suffered to be sent from thence to supply the foreign markets that are or have been supplied from England, Be it further enacted, &c., That if any Commissioner or Commissioners, Farmer or Farmers of the Revenue of Ireland, or Officer or Officers employed under them in the management of the said Revenue there, shall, from and after the said four and twentieth day of June, take or suffer to be taken any entry outward, or sign any cockett, warrant or sufferance for the shipping and exporting any such goods as aforesaid into any kingdom, state, or dominion whatsoever (except as aforesaid), or shall wittingly or willingly permit, contrive or suffer the same to be done directly or indirectly, contrary to the true intent and meaning of this Act, That then and in every such case such Commissioner or Commissioners, Farmer or Farmers, Officer or Officers so offending in the signing such cockett, warrant or sufferance for the shipping or exporting any of the said goods into any other kingdom, state or dominion or place whatsoever (except as aforesaid), or passing such entry for the same, or anywise conniving thereat, contrary to the true intent and meaning hereof, or shall otherwise fail or neglect to perform all other duties required by this present Act, shall for every such offence or neglect forfeit his and their office and offices, and be for ever after incapable of serving his Majesty in any office or place in the Revenue of England or Ireland, and shall moreover for every such offence forfeit the sum of five hundred pounds, to be recovered and employed in manner and form as aforesaid.

§ xii. And be it further enacted by the authority aforesaid, That every offence which shall be done or committed contrary to this Act shall and may be enquired of, tried, heard and determined in the county where any such goods as aforesaid shall be so laden or put on board as aforesaid, or else in the county either in England or Ireland where such offender shall happen to be apprehended or arrested for such offence, or where any such of the goods aforesaid, or the said ship or ships, vessels, hulks, barks or boats shall happen to be seized or taken or brought in; And that the said trial shall be in such manner and form and in such

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— done and committed in the same county.

No. 1216. § xiii. And be it further enacted by the authority aforesaid, That if any Action, Bill, Plaint, Suit or Information shall be commenced or prosecuted against any person for what he shall do in pursuance of this Act such person so sued shall and may file a Common Bail or enter into a Common Appearance and plead the General Issue Not Guilty, and upon issue joined may give this Act and the special matter in evidence, and if the plaintiff or prosecutor shall become nonsuit, or suffer discontinuance, or if a verdict pass against him, or if upon demurrer judgment pass against him, the defendants shall recover costs and damages for the molestation.

§ xiv. And for the further encouragement of the woollen manufactures of England, Be it enacted by the authority aforesaid, That it shall and may be lawful, from and after the said four and twentieth day of June, to import from Dublin, Kingsale, Waterford, Cork, Wexford, Drogheda, Carlingford, Galloway, Belfast, Carrickfergus, Londonderry or Youghal, in the Kingdom of Ireland, any wool, wool-fells, shortlings, mortlings, wool-flocks, worsted bay or woollen yarn, cloth, serges, bayes, kerseys, friezes, druggets, shalouns, stuffs, cloth serges, or any other drapery made of or mixed with wool or wool-flocks, and manufactured in the Kingdom of Ireland, into any the ports of this Kingdom or [the] Dominion of Wales, any law, statute or usage to the contrary in any wise notwithstanding.

§ xv. And for the more effectual preventing the transportation of wool, wool-fells, shortlings, mortlings or wool-flocks, worsted bay or woollen yarn, or any manufactures of wool or wool-flocks or mixed with the same into foreign parts, Be it enacted by the authority aforesaid, That the penalties and forfeitures of the bonds which by this Act or any other former law or usage are to be given or have been given in the Kingdom of Ireland for any wool or any of the commodities aforesaid intended to be exported from that Kingdom to be brought into the ports of this Kingdom or [the] Dominion of Wales as aforesaid shall not, on any consideration whatsoever, be granted or assigned over to any person whatsoever; And that all such grants or assignments are and shall be void to all intents and purposes, any law, usage or statute to the contrary in any wise notwithstanding.

§ xvi. And for the better preventing the exportation of wool out of this Kingdom or Ireland into foreign parts, Be it enacted by the authority aforesaid, That the Lord High Admiral of England, or Commissioners for executing the office of High Admiral for the time being, shall direct and appoint six ships of the sixth rate and eight armed sloops constantly to cruise on the coasts of England and Ireland, with orders to take and seize all ships, vessels or boats which shall export any wool with intent to carry it into foreign parts; And that the Lord High Admiral or Commissioners as aforesaid shall send a list of all such ships and sloops and the names of the commanders to the Commissioners of the Customs in London within ten days after such orders as aforesaid are or shall be given.

§ xvii. And for the encouragement of the commanders and mariners belonging to the ships and sloops aforesaid, Be it enacted by the authority aforesaid, That all wool or ship, vessel or boat that shall be so seized or taken shall be forfeited, and all such wool shall be lodged in the King's Warehouse in such port where it is or shall be taken or seized or into which it shall be brought, until it shall be condemned according to law, and there to be exposed publicly to sale, after fourteen days' notice, at the Custom-house of the said port, and on the Royal

Exchange of London, by inch of candle to the last and best bidder ; And all ships, vessels or boats that shall be so seized and condemned as aforesaid shall, together with all their guns, tackle, furniture and apparel, be exposed to sale in like manner ; And that one fourth part of the produce of the wool, ships, vessels or boats so sold as aforesaid shall be to the commander, and one fourth part to the officers of the ship or sloop that took the same, and one fourth part thereof to the mariners belonging to such ship, vessel or sloop, to be equally divided and paid amongst the said mariners by the Collector of the said port, or such person or persons as shall be authorized to do the same, and the other fourth part thereof to his Majesty, his heirs and successors, after a deduction made out of this last fourth part of all the charges of prosecution and condemnation.

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§ xviii. And for preventing of all composition or confederacy by any commander of any such ship, vessel or sloop with any person whatsoever concerned in such wool or ship, vessel or boat as aforesaid, Be it enacted by the authority aforesaid, That every commander of such ship or sloop neglecting his duty by this Act required, or compounding for any wool, ship, vessel or boat as aforesaid, or conniving at the exportation of any such wool, shall lose and forfeit all pay and wages due to him or them, and suffer six months' imprisonment, and be for ever incapable of serving his Majesty. *Parchment Collection.*

[Brought from the Commons this day. L. J., XVI. 217. Counsel were heard for and against the Bill on 30 March. *Sir Thomas Powys*, for the Irish gentlemen and merchants of London, not heard in the House of Commons (*see* No. 1229). I hope your Lordships will consider well before this Bill pass. It is a total prohibition of exporting into England. Cites the Book of Rates. All cloth imported is to be valued at 8s. 10d. per yard. The Customs come to 17d. per yard. The new draperies, says the Book of Rates, shall be 1s. 5d. per yard. The Custom to the King is 1s. 3d. per yard, and now double is half-a crown Customs. These are exclusion for them to come hither. This puts the Irish upon making cloth to clothe themselves. They make none but livery clothes, and we send thither thousands of yards in a year. This opens all the ports in Ireland to receive it. Exeter is a port excluded, being near France. This Bill is calculated wholly for Exeter. This will make them carry their wool where they can make most of it, even to Scotland in open boats. The Scots are already treating with them. This will fall on the poor, who have ventured their all for us and the good of that Kingdom. Reads a computation of trade in Ireland for some years last past. This Bill is not calculated for the good of this Kingdom in general, but for the City of Exeter. I have a list of the insignificant persons that prosecute this Bill. Several of these ran away for debt 20 years since and some 40 years. *Mr. Serjeant Wright*, for the Petitioners against the Bill: This will overthrow 20 laws now in being in England and Ireland. Cites several Irish Statutes. Stat. 14 Car. II. To prevent the exportation of wool. 4 and 5 this reign it is expressly enacted that Exeter shall not be a port for unlading Irish wool. This Act breaks through all laws at once. *Sir Francis Brewster* (against the Bill): There can come no dyeing stuff but from England. We cannot bring a cargo into Ireland. It is impossible to set up the old drapery in Ireland. As for the new drapery, it is fur or some such small thing. If this Bill pass, it will make the Irish people wear their own stuffs, because they cannot have English. The wool coming into England is of the greatest value. 1 lb. of Irish wool is worth 3 lbs. or 4 lbs. in other countries of English. 200,000*l.* worth of wool comes from Ireland, and every pound makes 7d. in England. 5,000 green hides. Linen yarn from Ireland. England

1697-8. gets 2,000,000 a year by the trade of Ireland. *Mr. Barry* (for the Bill) : This is whether the [illegible] shall remain here or elsewhere. If we lose our woollen trade, we lose our navigation. A list has been produced of several that are gone into Ireland. If this trade go on, they will have vent for cargoes of commodities for dyeing. We do not know under whose stocks these trades are carried on in Ireland. If by foreign, we ought to have a care ; if by their own, then they have not had such losses as we think. *Mr. Gardiner* (for the Bill): The wool in Ireland is 50 per cent. cheaper than in England. *Mr. Mais*, of Exeter, sworn: I went to Holland to consult merchants about the woollen trade in Ireland. The difference of making serges between England and Ireland is considerable. *Mr. Spry*, sworn: Some persons on the list are gone, to my knowledge. I heard some serge makers say that if this Bill did not pass they would go to Ireland. *Sir Thomas Powys* heard in reply. *Sir Francis Brewster* also heard. *Mr. Haslewick*, merchant to Ireland, heard. Counsel and others withdrew. Bill read 2^a, and, after debate, committed to a Select Committee, with power to consider of the state of the trade between England and Ireland, and particularly to consider of a Clause for establishing the linen manufacture in Ireland. MS. Min. L. J., XVI. 250.

In Select Committee, on 20 April 1698, E. Stamford in the Chair, the Bill is begun to be read by paragraphs. Title postponed. Preamble read. Counsel called in. *Sir Bartholomew Shore* attends for the Bill. *Sir Francis Brewster* alleging that the gentlemen that are against the Bill, not knowing that they were to be heard by Counsel, have none here, so desire a further time, and that they may have an Order for witnesses. The Committee order both sides to attend to-morrow with Counsel and witnesses. *Ordered* that the Commissioners of Customs give an account in writing to-morrow week of the state of the trade between England and Ireland. Com. Book.

On 21 April. Counsel called in. Preamble read. *Sir Bartholomew Shore* (for the Bill) produces the witnesses following, viz. (1) *Henry How*, sworn: Says he lived five years in Ireland, from 1684 to 1689. He knows woollen manufactures are made at Youghal, Tallow, and Capqueen, [Cappoquin] Clamell [Clonmel], Cork, Kingsale, and Bandon. White serges are made at Youghal, as also bayes, broad-cloths, and mixed serges. There were about 10 or 12 makers there. 40 pieces, he believes, were made a week at Youghal, and as many at Capqueen, and 400 or 500 pieces of serge at Cork. Newnham, Pike, and others exported 400 pieces weekly from Cork. Witness has often been desired by Pike, &c, to return to Ireland to follow his trade. He has bought white and mixed serges there to send to Germany, and they were as well liked there as those made in the West of England are. Spinning there is about 6*d.* a pound, 20 ounces to the pound. They have the same conveniences in Ireland as we have in England. Spinning is above a third part cheaper there than in England. Wool there he has known bought at 7*s.* or 8*s.* a stone, 16 lb. to the stone. The manufacture increased all the time he was in Ireland. Combing, weaving and dyeing are about the same rates they are in England. Witness is a Tacker. His work was the same price there as he has here. He could live cheaper there. *Thomas Lewis*, sworn: Lives in Bristol, and deals in wool. The last advice he had from Ireland was that wool was 9*s.* 6*d.* or 10*s.* a stone. In England it is 13*s.* 4*d.* 8*s.* in England is 9*s.* 7*d.* in Ireland, which is upwards of 60 per cent. difference in the price of wool. His last advice was in March. He was in Ireland in January. He saw several manufactures there then, such as serges, shaloons, friezes. Spinning is 7*d.* a ball, which is a pound and a half. He heard 7*d.* a yard asked for

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stuffs which would yield nearly 10*d.* here. He heard in Ireland serges might be bought for 16*d.* as good as near 2*s.* here. Rateens go there from 2*s.* 3*d.* to 2*s.* 8*d.* They are worth 4*s.* here. Shaloons he heard he might buy for 10*s.* or 11*s.* He saw broad-cloth at 6*s.* a yard there, which is worth 9*s.* here. The exchange in Bills is from 17 to 19, and a crown there being worth 6*s.* makes it 20 per cent. *Question*: Is there the same disproportion between wool in Ireland as between wool in England? *Answer*: I have sold wool in England for 13*s.* 4*d.*, which I bought there for 10*s.* In January he bought wool so, and in three weeks after he sold it so. He knows not there was any alteration in the price of wool in England. Combing there is about the same price as it is here. Dyeing stuff ought to go all from England, but they have had some casually otherwise, as he has heard. The manufacture in Ireland he believes has increased considerably since the war. In his judgment it is considerably increased since 1689. *John Smith*, sworn: Lives at Collumpton [Cullompton]. He did live at Exeter. Deals in wool; was partner with Mr. Holdred in Dublin several years, before the war. After the war he came to me for two months, and would have had me and divers others to settle at Cork to carry on the serge trade there, and said he would engage it should be worth 500*l.* per annum to me, but I told him I would not betray my own country in carrying the trade thither. He endeavoured to persuade Bryan and others to go. Before the war witness and Holright (*sic*) dealt for more than 8,000*l.* per annum in wool. Since that he has not dealt thither. We always proposed to get 1*s.* a stone. The charge of the conveyance was 3*s.* If we bought wool there for 8*s.*, we sold for 12*s.* here. Irish wool is generally better than the English. Witness knows not whether the manufacture there is increased. *Hugh Denham*, sworn: Lives in Taunton. He had letters from Mr. Smith in Watford a fortnight since with wool. He sold it the same day it came for 10*d.* the pound. The wool cost there 7½*d.*, which is 25 per cent., besides [which] he had the benefit of exchange. 6*d.* here is 7*d.* there, so 3 lb. costs [1*s.*] 8*d.* English money. In England he sells it for 2*s.* 6*d.* Irish wool is better for making cloth than English wool. About three years and a half since he was offered houses there rent free, to bring what work-folks he would. He saw a great deal of mixed serges there, and they are as good to send abroad as any made here. He cannot tell exactly what it stands in the bringing over. Irish wool will make fine serge. Rogers carried over 16 Combers this year. Fountaine told me, if I would settle there, I might get 20*s.* for every crown I get here. *Philip Collier*, sworn: Says the Irish began to export serges about the latter end of King Charles' reign. They made but ten or twenty pieces a week at first; he supposes they made about 500 pieces a week when he came away. White worsted may be made a third part cheaper in Ireland than in England. Dyed ones are about 9½*d.* to 12*d.* *George Leeson*, sworn: Lives in London. Was 4 years in Ireland, and has been come away six weeks. Many in Cork export the woollen manufacture and live on it, viz., Ald. Hovell, Simpson, Mitchell, Molt, Hill. Cely came to him for patterns of several sorts of serges and bayes. Three Jews are lately come to Ireland. One of them was with him for patterns of serges. Alderman Ballard set up a manufactory about six months at Mallard [Mallow]. There came 100 pieces from him to Cork. Mr. Fountaine, a Frenchman from Taunton, is come to Cork; he makes broad-cloths and serges. Mr. Evererd from Colechester is come there; he makes bayes. They make some bayes there better than they do at Colchester. Mr. Waters and Mr. Baron send many bayes beyond sea. Mr. Walter there is a factor for merchants in London. *Mr. Serjeant Wright*

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says their witnesses could not possibly be ready, for they knew not they were to be heard till yesterday. He desires a further day for them to attend. They withdraw. They are called in again, and both sides are told that they may bring their witnesses to be sworn on Monday week, and may be examined the day following. The Commissioners of the Customs to be acquainted that they attend that day with the state of the trade between England and Ireland. *Memo-randum* by Clerk: I told Mr. Hancock he should acquaint them therewith when he delivered them the Order made the last day. Com. Book.—On 3 May the *Commissioners of the Customs* by their Officers delivered in an account of the state of the trade between England and Ireland, in four books, which being imperfect, they were given them back to be perfected with what convenient speed they can. They proposed that they might give notice to the Clerk when they can be ready. *Ordered* that Counsel and witnesses attend on 6 May. Com. Book.—On 6 May the *Secretary to the Commissioners for Customs* delivers in an estimate of the value of the species of the exportations and importations to and from Ireland in four books [No. 1229 Annex (v)]. The persons for and against the Bill are called in. *Sir Bartholomew Shore* proposes that Mr. Heigham may be examined. *Mr. Bedingfield Heigham*, sworn: Says that great quantities of woollen goods go from England to Holland. That he, being desirous to partake of the benefit of it, desired his correspondent there, Mr. Baron, to give him the prices, because he intended to send them from hence. He answered, he could not encourage me to send any, for they had them much cheaper from Ireland and very little inferior to the English. He solicited me to be concerned with him in that trade from Ireland, for he had established a great workhouse in Dublin. He also sent over his brother (who likewise solicited me to join with him), and he is set up at Cork. I have bought considerable quantities of wool in Ireland and ordered them to be wrought up in bayes and perpetuanoes, serges and sayes. They are nearly as good as in England. In Holland they make not above 5 or 6 per cent. difference. In the cost there is near 40. Mr. Baron wrote to him that several Dutch and Flanderkins were concerned with him in stock to carry on the trade. Baron advises him they make bayes as good and long in Ireland as they make at Colchester. In Ireland bayes are about 3*l.* or 3*l.* 2*s.* or 3*l.* 3*s.* Irish moneys (which is 12*l.* per cent. difference). In London we pay about 4*l.* or 4*l.* 4*s.* for the like pieces made at Colchester. His correspondent in Ireland has often written to him that stockings are very cheap there. He lives in Devonshire Square, in London. The English manufactures will not turn to account abroad, because they are cheaper from Ireland. He has sent a head workman to Ireland, and promised him to send as many more as he desired, if the Bill did not pass. This weaver has written to me that he has now under him between 700 and 800, and he doubts not but in a little time to double the number. I promised him that I would keep constantly at work there 1,500. He says that he has computed on several sorts of woollen goods that there is between 30 and 40 per cent. difference in the price of them. *Cross-examined*: There are factories of Dutchmen in Ireland. Produces a letter from Mr. Sam. Baron, dated June 1696, and another from Cork, dated July 1696, from Jo. Baron. It is about 11 or 12 months since he promised his master weaver to employ 1,500 men. It was purely out of respect to the good of his country that he (*sic*). He never heard from any of his correspondents in Spain or Portugal that the Irish bayes were burnt. He has traded about a year in the woollen manufacture from Ireland.

Peter Blundell, sworn: Lived at St. Malo from April 1683 to December 1688. Thrice the value of the woollen manufacture came from Ireland than from England, while he lived there. He believes 2,000*l.* worth came from Ireland in a year. *Cross-examined*: He was servant to two factors there, Arthur and Forty. His master only received English; Mr. White, Curse, Elemore, Brown and others received Irish goods. This was a great detriment to the English. The chief goods he observed from Ireland were friezes. *George Capstack*, sworn: Lives now in London. Was a clothmaker at Leeds. In 1662 he went to Ireland. Was entertained by Graves, a clothmaker in Dublin. It was then agreed between Graves and Westberry to make each a piece of as good cloth as they could, and present the same to the Duke of Ormonde. I made a piece for my master of Irish wool, with a little Spanish in it, and it was presented and worn by the Duke and Lord Ossory, and was worth 12*s.*, 14*s.*, or 16*s.* in England. There we talked it was worth 20*s.* It was spun by as many of the Somersetshire people as we could get. He lived 4 years there, and when he came away he was desired at Dublin by Col. Lawrence to return with as many spinners as he could get, to improve that manufacture, and to give him the length, breadth and prices of our Northern cloths. He afterwards wrote to me to return, but I did not go, but only sent him the lengths and breadths. He returned to Ireland about 1670 or 1672, and then saw the woollen manufacture was much improved; he heard to six times the quantity in broad cloth. He believes they can make as good cloth in Ireland or better than can be made in the North of England. *Cross-examined*: He never saw so good cloth made in the North of England as the piece before-mentioned which he made in Ireland. He believes it was as much Irish wool as the coat on his back is made of English. They withdraw. Adjourned to 13 May. Com. Book.

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On report from the Committee *eod. die* (6 May) the House ordered an Address to the King for copies of such papers as were transmitted into Ireland by the Lords Justices relating to the linen manufacture there. L. J., XVI. 276. No entry of this Report in Com. Book. On 7 May the King returned an answer promising the papers in question. L. J., XVI. 278.

The Committee met again, but only to adjourn, on May 13 and 18 (E. Tankerville in the Chair), and on May 21 (L. Herbert in the Chair), when they adjourned to May 25. Com. Book.

Nothing further is recorded till 3 June, when, the House being moved that the Bill be taken from the Select Committee and committed to C. W. H., it was *Proposed* that an Address should be made to the King to send to the Lords Justices to discourage the woollen manufacture in Ireland, and that they take care to set up the linen manufacture there, and to propose to his Majesty what remedies they think proper. That he would issue a Proclamation in Ireland that the setting up the woollen manufacture there is that which will not be endured by the English. To discourage the woollen manufacture in Ireland and encourage the linen manufacture there. The House then Ordered the Select Committee to meet on 7 June and to prepare an Address according to the debate. MS. Min. L. J., XVI. 309.

The Committee met on 7 June, E. Stamford in the Chair, and, after reading the preamble of the Bill, *Ordered* that the House be moved that the last part of the Order of Reference be again considered and explained. Com. Book. On 9 June they reported an Address which they had prepared and which was duly presented to the King and an answer received. L. J., XVI. 314, 315.]

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1217. Feb. 24. Atheism; Blasphemy and Profaneness Suppression Bill.—Amended* Draft of an Act for the more effectual suppressing of Atheism, Blasphemy and Profaneness. For the more effectual suppressing of the detestable crimes of Atheism, Blasphemy and Profaneness, Be it enacted &c., That if any person or persons after the *twenty-fifth* day of *March one thousand six hundred and ninety eight* shall by writing, *printing*, teaching, or advised speaking, deny that there is a God, or that shall deny any one of the Persons in the Holy Trinity to be God, or shall deny the Christian Religion to be true, or the Holy Scriptures of the Old and New Testament to be of Divine Authority, and shall, upon Indictment or Information, be thereof lawfully convicted by the oath of two or more credible witnesses, every such person or persons for the first offence shall become incapable, and is and are hereby declared and adjudged to be for ever incapable, of having or bearing, executing or enjoying any public office, place, trust or employment, civil, military or ecclesiastical, within this Realm; And, if he or they shall be a second time lawfully convicted of all or any of the aforesaid crime or crimes in manner aforesaid, that then he or they shall be taken and esteemed as an infamous person or persons, and shall be and are hereby declared and adjudged to be for ever utterly incapable of giving any evidence or testimony in any Court of law or equity, or any other Court whatsoever within this Realm, to all intents and purposes as if such person or persons stood convicted of perjury; And, if he or they shall be a third time lawfully convicted of all or any of the aforesaid crime or crimes in manner aforesaid, that then for such third offence he or they shall suffer imprisonment by the space of *three* years from the time of such conviction.

Provided always, and be it enacted by the authority aforesaid, That no person shall be prosecuted by virtue of this Act for any words spoken, unless the Information of such words shall be given upon oath before one or more Justice or Justices of the Peace within *four* days after such words spoken, and the prosecution of such offence be within *three* months after such Information.

Provided also, and be it enacted by the authority aforesaid, That any person or persons convicted of all or any of the aforesaid crime or crimes in manner aforesaid may for the first offence, upon *his her*, or their acknowledgement and renunciation of the same in any of his Majesty's Courts of Record within this Realm within the space of *three* months after *his, her or* their conviction, be pardoned, remitted or discharged by the King's Majesty, his heirs or successors under the *Great or Privy Seal*, anything in this Act to the contrary thereof in any wise notwithstanding. [Read 1^a this day. L. J., XVI. 217. In C. W. H. a Clause was added providing that the Act should be read in Churches (Annex (a) below), the date was inserted, and the limit of time within which offenders could be prosecuted and informed against. MS. Min. The Bill was sent to the Commons on 26 Feb. *Ib.* 220. After reaching the Committee stage, it appears to have been laid aside in favour of a Bill with the same object already introduced there, which was brought up to the Lords on 31 March. *Ib.* 252. In C. W. H. on 2 May the Lords made some amendments to the last mentioned Bill, one of which, as the Commons pointed out, would make the Bill apply to Jews. The others apparently made it apply to seldiers. MS. Min. L. J., XVI. 298. The Commons disagreed to the first of these amendments, and after a conference the Lords decided not to insist upon it. *Ib.* 306. The Bill received the Royal Assent on 5 July. *Ib.* 343. 9 Will III. c. 35., Fol. Ed.]

* The additions are shown by italics.

Annexed :—

(a) 25 Feb. Draft Clause, as follows :—“ And be it further enacted by the authority aforesaid, That this Act shall be read in all Churches and public Chapels within this Realm twice every year next after Morning Prayer, viz. on Trinity Sunday and the next Sunday after Christmas Day.” [Inserted in C. W. H. this day. MS. Min.]

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1218. Feb. 24. Knott's Estate Act.—Consent of Samuel Starling to the passing of the Bill. *Dated* 26 Jan. 1697-8. *Attested* by John Whitley. [Read in Committee this day. Com. Book. The Bill was brought from the Commons on 24 Jan., and received the Royal Assent on 7 March. L. J., XVI. 200, 228. 10 Will. III. c. 16 in Long Cal.]

1219. Feb. 25. Arbitration Act.—Amended* Draft of *an Act for determining Differences by Arbitration*. Whereas it has been found by experience that References made by Rule of Court have contributed much to the ease of the Subject in the determining of controversies, because the parties become thereby obliged to submit to the award of the arbitrators, under the penalty of imprisonment for their contempt, in case they refuse submission; Now, for promoting trade and rendering the awards of arbitrators the more effectual in all cases for the final determination of controversies referred to them by merchants and traders or others concerning matters of account or trade or other matters, Be it enacted, &c., That, from and after the *eleventh* day of *May* which shall be in the year of our Lord, 1698, it shall and may be lawful for all merchants and traders and others desiring to end any controversy, suit or quarrel, controversies, suits or quarrels (for which there is no other remedy but by personal action or suit in Equity) by arbitration to agree that their submission of the suit to the award or umpirage of any person or persons should be made a Rule of any of his Majesty's Courts of Record, which the parties shall choose, and to insert such their agreement in their submission, or into the condition of the bond or promise whereby they oblige themselves respectively to submit to the award or umpirage of any person or persons, which agreement, being so made and inserted in their submission or promise or condition of their respective bonds, shall or may, upon producing an Affidavit thereof made by the witnesses thereunto or any one of them in the Court of which the same is agreed to be made a Rule, and reading and filing the said Affidavit in Court, be entered of Record in such Court; and a Rule shall thereupon be made by the said Court that the parties shall submit to and finally be concluded by the arbitration or umpirage which shall be made concerning them by the arbitrators or umpire, pursuant to such submission; And in case of disobedience to such arbitration or umpirage the party neglecting or refusing to perform and execute the same or any part thereof shall be subject to all the penalties of contemning a Rule of Court when he is a suitor or defendant in such Court; and the Court on motion shall issue process accordingly, which process shall not be stopped or delayed in its execution by any Order, Rule, command or process of any other Court, either of Law or Equity, unless it shall be made appear on oath to such Court that the arbitrators or umpire misbehaved themselves, and that such award, arbitration or umpirage was procured by corruption or other undue means.

* The additions are shown by italics and the omission by square brackets.

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And be it further enacted by the authority aforesaid, That any arbitration or umpirage procured by corruption or undue means shall be judged and esteemed void and of none effect, and accordingly be set aside by any Court of Law or Equity, so as complaint of such corruption or undue practice be made in the Court where the Rule is made for submission to such arbitration or umpirage [within] *before the last day of the next term* after such arbitration or umpirage made and published to the parties, anything in this Act contained to the contrary notwithstanding. [Read 1^a this day. Royal Assent 16 May. L. J., XVI. 219, 287. 9 Will. III. c. 15., Fol. Ed.]

1220. Feb. 25. Rickards v. Cornforth (In Error).—Copy Writ of Error and Transcript of Record. The Plaintiff brought an action, claiming 40*l.* damages, against the Defendant Henry Cornforth, late of Enfield, Middlesex, yeoman, for seizing certain of his cattle and goods on 26 Sept. 7 Will. III. at Enfield Hills, forming part of certain lands leased by Christopher, D. Albemarle, to one John Bathurst. The Plaintiff alleged that, while Bathurst was in possession, the Duke, by Indenture of 15 July 1681, made and executed at Albemarle House, London, between himself, E. Torrington, and Baron Monck of Potheridge, Beauchamp and Teyes, on the one part, and Henry, D. Newcastle, E. Bath, Sir Bernard Grenville, Sir Walter Clarges, Bart., and Sir Thomas Stringer, on the other, sold the reversion of the premises to D. Newcastle, and by deed of 16 July 1681 released the reversion to the use of himself and heirs, and then to the use of E. Bath and heirs. The Defendant pleaded that he seized the cattle, as bailiff of E. Montagu and his wife Elizabeth, for arrears of rent for 2½ years, amounting to 350*l.*, and set forth that on 1 Nov. 1678 the D. Albemarle leased to Bathurst for 21 years, at a rent of 140*l.* a year, certain lands forming part of Enfield Park and lately in the possession of Capt. Paskfeild, Faith Waters and Robert Browne, the reversion of which he left by will in 1687 to his wife Elizabeth, who after his death married Ralph, E. Montagu. The jury found in favour of Cornforth, and the verdict was affirmed in the Court of Common Pleas. [Writ of Error brought in this day. L. J., XVI. 219. At the Hearing on 12 May *Sir Bartholomew Shore* and *Mr. Northey* were heard for the Plaintiff and *Mr. Serjt. Wright* and *Sir Thomas Powys* for the Defendant. The *L. C. Justice of King's Bench* was also heard. On 17 May ten judges were heard. MS. Min. The Judgment was affirmed and the Record remitted. L. J., XVI. 288-9.]

Annexed:—

(a) 3 May 1698. Petition of John, Earl of Bath. At the trial in the Court of Common Pleas between Rickards, Petitioner's tenant, and Cornforth, E. Montagu's bailiff, upon the litigated title to the estate of the late D. Albemarle, false witnesses were produced against Petitioner's title, whereby a verdict passed against him. Petitioner exhibited Informations against twelve of those witnesses for perjury, and not being admitted to offer the perjury in arrest of judgment until conviction, he signified to the Court and to E. Montagu's agents that he would insist on his privilege until the perjuries could be tried, but E. Montagu, having had the leave of the House to enter up judgment on that verdict, took out execution thereupon. Petitioner then brought a Writ of Error in the King's Bench, and the Court declared the Judgment erroneous in a point incurable, and gave a Rule (*See Annex (b) below*) reversing the Judgment unless cause to the contrary were shown within a week. Before that time expired,

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E. Montagu's Counsel moved the Court of Common Pleas for leave to amend the Record there, with a view to amending it in the King's Bench, and thus disappointing Petitioner of the reversal. The Court of Common Pleas ordered that the Record should be amended, without waiting till the trials on the Informations for perjury were over, although informed by Petitioner's Counsel that there were twelve such Informations for perjury, and two for subornation of perjury, whereof four had been convicted, which would be defeated in case of such amendment, since, the Record being set forth in the Informations, it would be necessary on the trial to prove a true copy, which, in case of amendment, would vary from that in the Informations. The criminals, therefore, are escaped, unless the House shall order the Records to be re-altered, the same being before the House by Writ of Error brought in on 25 Feb. last. Prays to be heard by Counsel when the Errors are argued, and that the verdict obtained by perjury may not be given in evidence against Petitioner in any future trials, the House having already made an Order, with the consent of E. Montagu, that none of the twelve persons against whom Informations for perjury are depending should be produced as witnesses in any Cause relating to the estate of the late Duke of Albemarle. L. J., XVI. 272.

(b) 3 May. Rule of the Court of King's Bench. [Referred to in, and appended to preceding.]

1221. Feb. 25. *The King v. Mellens* (In Error).—Copy Writ of Error and Transcript of Record. The Writ of Error is against a Judgment of King's Bench, quashing an Information brought against Philip Mellens, of Westminster, labourer, for perjury. The Information recites at length the proceedings in the case of "*Rickards v. Cornforth*" (See No. 1220), at the trial of which certain witnesses for the Plaintiff gave evidence as to the execution of two deeds of 15 and 16 July 1681 by D. Albemarle at Albemarle House, and deposed that Sir John Copleston was then present and witnessed their execution. Mellens, a witness for Cornforth, the Defendant, falsely swore that Sir John Copleston was at Cannington, in Somersetshire, on 20 and 25 July 1681, and remained there six or seven days after the 25th. [Writ of Error brought in this day. L. J., XVI. 219. At the Hearing on 12 March of *Greepe v. Rex*, after Counsel had been heard on either side, they allowed the case of *Rex v. Mellens* to be the same with the one which had been argued. The judges were heard, and on a division the Judgment in the first case was reversed by 35 to 21. The Judgment in *Rex v. Mellens* was then reversed also; Mellens was fined 5*l.*, ordered to stand in the pillory at Cannington and be imprisoned till payment. The Lord Chief Justice of the King's Bench was directed to issue his warrant to apprehend Mellens, in order to bind him to appear in the King's Bench the first day of the next term, to be punished according to the Judgment. MS. Min.]

Annexed:—

(a) 5 March. Petition of Phillip Mellens and Robert Greepe. Two Informations of perjury having lately been preferred against Petitioners upon one and the same point, the Court of King's Bench unanimously discharged Petitioners. Petitioners' Counsel and the Judges who gave the Judgments complained of are speedily going their Circuits, and the point in question is purely a matter of law. Pray that the Causes may be heard either before

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or after the Circuit. *Signed* by Phillip Mellens. L. J., XVI. 226.

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(b) 5 March. Petition of John, Earl of Bath. Petitioner has exhibited several Informations for perjury and subornation of perjury in the King's Bench at his own cost and prosecution, and amongst others, against Mellens and Greepe, where the Defendants were legally tried and found guilty of perjury, but Judgments were given against the King under pretence of some defect or matter of form in the Information or Pleadings. Defendants have delayed joining issue till yesterday. Prays for copies of their pleas and for an early day for hearing. L. J., XVI. 226.

1222. Feb. 25. *Davies v. Speed* (In Error).—Copy Writ of Error and Transcript of Record. The Cause relates to the manor of Wishanger, in the parish of Hedley [Headley], co. Southampton, the property of one Anna Baker, who married William Horne, a merchant of Southampton. She and her husband on 21 Sept. 1649 conveyed the manor to Roger Gallop, Esq., and William Stanley, merchant, both of Southampton, for the use of their heirs, if any, and, failing issue, to the use of the right heirs of the husband. Anna and William Horne died without leaving issue, their son William having died in their lifetime. William left a sister and only heir Francis Cockey, a widow, and Anna left three sisters and co-heirs, viz. Elizabeth, wife of John Speed, the Defendant, Johanna Older, widow, and Gressell Westwood, who had a daughter Joanna. The manor was conveyed to Speed, who took possession, but was ejected by Cockey, who let it to the Plaintiff for seven years. Plaintiff, being ejected by Speed, brought an action of ejectment, but the jury found against him, and their verdict was affirmed on appeal, and Plaintiff's Bill dismissed. [Writ of Error brought in this day L. J., XVI. 219. At the Hearing on 7 April *Mr. Serjeant Wright* and *Mr. Pooley* were heard for the Plaintiff, and *Sir Thomas Powys* and *Sir Bartholomew Shore* for the Defendant. MS. Min. The Judgment was affirmed and the Record remitted. L. J., XVI. 259.]

Annexed:—

(a) 3 March 1697-8. Petition of Plaintiff that Defendant may be ordered to join issue. L. J., XVI. 223.

(b) 21 March. Petition of Plaintiff for an early day for hearing. L. J., XVI. 241.

1223. Feb. 25. *Coote v. Lyneh* (In Error).—Copy Writ of Error and Transcript of Record. Richard Coote claimed certain lands in Ireland, which he said had been forfeited by Viscount Gormanstown, a Roman Catholic. The lands in question had, however, been restored to Lord Gormanstown (20 Car. 2), and had been bequeathed by him to John Lyneh, who had entered into possession. Coote then brought an action against Lyneh, but the Courts of Ireland and the King's Bench in England maintained Lyneh's title to the property. Upon this, Coote brought a Writ of Error to the House of Lords.

[The Writ of Error was brought in this day. L. J., XVI. 219. At the Hearing on 28 March *Sir Bartholomew Shore* and *Mr. Northey* were heard for the Plaintiff, and *Mr. Solicitor* and *Mr. Serjeant Wright* for the Defendant. MS. Min. The Judgment was affirmed and Record remitted. L. J., XVI. 248-9.]

Annexed:—

(a) 16 March 1697-8. Petition of John Lyneh. Petitioner had a Verdict and Judgment in the Court of Common Pleas in Ireland

for the lands in question, which Judgment was affirmed in the Court of King's Bench in Ireland, and since then in the Court of King's Bench in England, upon a Writ of Error, notwithstanding which Plaintiff has brought another Writ of Error into Parliament, thereby keeping Petitioner out of possession above six years. Prays for an early day for arguing Errors. L. J., XVI. 236.

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1224. Feb. 28. Bishop of Chester and another *v.* The King (In Error). Petition of the Plaintiff Richard Peirse, that a day may be appointed for Defendant to reply and join issue. L. J., XVI. 221.

[The Writ was brought in on 25 Feb. *Ib.* 219. At the Hearing on 22 March *Sir Bartholomew Shore* and *Mr. Northey* were heard for the Plaintiffs, and *Mr. Attorney-General* and *Mr. Serjeant Wright* for the King. MS. Min. The Judgment was reversed with directions. L. J., XVI. 243.]

Annexed:—

(a) 7 March. Petition of Richard Peirse for a day for hearing. L. J., XVI. 229.

1225. Feb. 28. Hewett's Estate Act. Draft of an Act for vesting in trustees, to be sold, certain lands of George Hewett, Esq., lying in the County of Middlesex, settled upon his marriage, and with the money arising thereby for purchasing other lands in Leicestershire, where his estate and seat lies, to be settled to the same uses. [Read this day: Royal Assent 2 April 1698. L. J., XVI. 220, 256. 10 Will. III. c. 34 in Long Cal.]

Annexed:—

(a) 12 March. Consent of Penelope Hewett to the passing of the Bill. *Dated* 24 Feb. 1697-8. *Attested* by William Throne and John Lewis. [Read in Committee this day. Com. Book.]

(b) 12 March. Consent of Sir William Villiers. *Dated* 7 March 1697-8. *Attested* by Thomas Noble and John Lewis. [Read in Committee this day. Com. Book.]

(c) 12 March. Consent of Shukbrugh Ashby and William Jesson. *Dated* 24 Feb. 1697-8. *Attested* respectively by Euseby Ashby and John Lewis, and by John Coy and John Lewis. [Read in Committee this day. Com. Book.]

1226. Feb. 28.* Sir W. Godolphin's Estate Act.—Petition of Don Phelipe de la Guerra, Agent and Consul to his Catholic Majesty, on the behalf of the Executors of the last Will and Testament of Sir William Godolphin, Knt., deceased, subjects of his said Catholic Majesty, residing in the Kingdom of Spain. Sir William Godolphin died

* Sir William Godolphin (1634?-1696) was appointed Ambassador to Spain in 1671. Almost immediately afterwards he appears to have become a Roman Catholic, although for some years he denied his conversion. In Titus Oates's narrative it was declared that Godolphin was in correspondence with the organizers of the Popish Plot, and was to hold the privy seal in the ministry to be formed by them. Upon this the House of Commons voted an address for his recall. Godolphin ceased to be Ambassador, but stayed in Spain and openly declared his conversion to Roman Catholicism. Shortly before his death he consented to a "Notarial Act" by which he made his soul his heir and empowered certain people to make his will after his death. By the Act of Parliament passed in 1698 this posthumous will was declared void, and his relations were empowered to carry out a disposition of his property which he had made subsequent to the Notarial Act. He left property valued at 80,000*l.*

1697-8. in July 1696 at Madrid, having duly made his Will on 30 March of that year. Prays to be heard against the Bill brought in to destroy the Will. —
 No. 1226. L. J., XVI. 221. [The Bill in question was brought from the Commons and read 1^a on 26 Feb. *Ib.* 219. On 5 March *Sir Bartholomew Shore* and *Mr. Law*, a Civilian, were heard for the Petitioner. *Mr. Serjeant Wright* (for the Bill): All the legacies in the Bill are settled as given. If the legacy to the soul be void, then here is 1016 pistoles undisposed of, and who should have them but the heirs? *Mr. Waller*, Civilian, (for the Bill) is heard. Counsel for Petitioner heard in reply. The Bill was then read 2^a. L. J., XVI. 226. MS. Min. The proceedings in Select Committee (E. Stamford, Chairman) were as follows:—

8 March. Parties called in. Bill read by paragraphs. Title postponed. Preamble read. *Don Phelipe de la Guerra* is heard as to the matter of fact. As to the 1st paragraph of the preamble, he says Sir W. Godolphin made a Will. The Will is read at his desire. The whole preamble postponed. First enacting Clause read. He says the executors only explained the Will. *Ordered* that Don Phelipe and Francis Godolphin and Charles Godolphin be heard by their Counsel. Com. Book.

10 March. Counsel called in. First enacting Clause read. *Counsel* (for Don Phelipe): The instructions given by Sir W. Godolphin to draw his Will amount to a Will. The making his soul his universal heir in the Civil law is the giving the residuum of his estate to the poor, for disposing it in the way as is most agreeable to God Almighty. Proposes that this Act do not prejudice the dispositions of Sir W. Godolphin really made by him in his lifetime. *Mr. Godolphin* reads part of a letter to him from Mr. Stanhope in Spain, touching the disposal of part of Sir W. Godolphin's estate. A Proviso offered by *Mr. Godolphin*, as also one offered by the *Counsel* on the other side, is read. They withdraw. *Ordered* that *Mr. Godolphin* have a copy of the Proviso offered by *Sir B. Shore*. Com. Book.

15 March. Counsel called in. *Mr. Serjeant Wright* makes objections to the Proviso offered the last day, viz., to the word ("whatsoever"), and to the legacies to the poor more than the 3,000*l.* A Clause is offered on behalf of Mr. Godolphin in lieu of the above-mentioned Proviso, which is read, and some amendments made to it by *Sir B. Shore* and agreed to by the other side. *Mr. Serjeant Wright* proposes that, if this Clause be added to the Bill, the Clause in the Bill relating to the 3,000*l.* to the poor be left out. *Sir Bartholomew Shore* proposing that Mr. Godolphin may oblige himself to waive his privilege, and he saying that the House of Commons have made an Order to the contrary, he has time to consider whether it may not be advisable for him to get that Order revoked. Com. Book.

23 March. Parties called in. The Clause considered at the last meeting is read, and some alterations are made therein. Com. Book.

26 March. Parties called in. The Clause read again and considered, and altered by adding a Proviso and altering ("25 March") to ("24 June"). *Mr. Hunt* (for Mr. Lamb and other of Sir W. Godolphin's relations) offers an amendment to the Clause, which is read, and after consideration rejected. They withdraw. First enacting Clause read and agreed to the last enacting Clause in the Bill. Counsel called in. Last enacting Clause read. *Mr. Godolphin* offers a Saving, which is read. Counsel directed to agree to a Clause and offer it at the next meeting. Com. Book.

29 March. Parties called in. *Mr. Serjeant Wright* and *Sir Bartholomew Shore* offer the Clauses directed at the last meeting to be drawn, which are read. (Annex (c) below). *Mr. Godolphin* is heard

to the inconsistency of the said Clauses with the Bill. *Counsel* further heard. *Mr. Godolphin* offers some amendments to be made to several parts of the Bill, which are read. They withdraw. 1697-8.

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Sk. 6. line 24. After ("Chancery") insert ("At the time upon the estate of the said Sir William Godolphin, now in that Court, shall be delivered up to them"). At the end of the Bill add the Clauses marked A (Annex (c) below) instead of the Clauses considered the last two meetings.

Preamble read and agreed. *Ordered* to be reported with Amendments. Com. Book.

The Amendments were agreed to on Report, and afterwards by the Commons. L. J., XVI. 251, 255. The Bill received the Royal Assent on 2 April. *Ib.* 256. 10 Will. III. c. 31 in Long Cal.]

Annexed:—

(a) 1 March. Paper as follows:—

Martis 1^o die Martii 1697. *Ordered** That the Papers produced at the Committee appointed to consider the Petition of Don Phil. de la Guerra, touching Sir William Godolphin's Will be transmitted to the Clerk of the House of Lords, to be made use of by the respective parties as there shall be occasion on hearing the matter there. *Signed* Paul Jodrell, Cl. Dom. Com.

Received of Mr. Jodrell the Papers following, viz, :—

No. 1. The Notarial Act of Sir William Godolphin in Spanish.

No. 2. A Power from the Testamentarios to Don Phil. to prove the said Notarial Act in Spanish.

No. 3. A Translation of the said Notarial Act.

No. 4. An Abstract of several legacies and dispositions put into form by the executors of Sir William Godolphin in English.

No. 5. A copy of Sir W. Godolphin's former Will, dated 22 March 1668-9.

No. 6. The Administration granted to Mr. Fra. Godolphin and his sister, with several legacies thereunto annexed.

Noted: Received March 1, 1697 by me, John Walker. *Underwritten* is the following. "July 11, 1698. Received the Paper numbered 2 this day of Mr. John Walker, by Order of the House of Peers of the 1st instant.† I say received by me, Tho. Harvey." *Endorsed* Mr. Walker's receipt for Papers relating to Sir Wm. Godolphin's Will.

(a¹) 1 March. Cover endorsed as follows: "March 1, 1697. Received this of Mr. Courtop by Mr. Jodrell's order, and showing me an Order of the House of Commons for his so doing. Jno. Walker."

(a²) 1 March. Papers referred to in Annex (a) above, viz.

No. 1. Notarial Act of Sir W. Godolphin in Spanish.

[No. 2 is wanting. See Annex (a) above.]

No. 3. Translation of said Notarial Act. Sir William Godolphin, a native of Cornwall, residing at Madrid, and late Ambassador there for England, being ill in bed, but of sound mind, and a member of the Roman Catholic Church, and being unable by illness to make his Will, has communicated the form of it and all matters for the discharge of his conscience to the Most

* This Order is not entered in the Commons Journal.

† L. J., XVI. 336.

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Reverend Don Matthias de Escolar, Abbot of the Order of St. Basil, Father Jeromino Guerrero, Procurator-General of the College of the Company of Jesus in this Court, the Licentiate Don Balthasar de Cabredo, and Don Antonio de Cendoya, Secretary of the King of Spain, with full power to them jointly and severally to make, pass and execute his Will according to his directions. He wills that his body should be buried where and how the executors shall think fit, and that on the day of his burial, or the next day, and nine days afterwards, a High Mass should be sung with a deacon, sub-deacon, vigil and responses, and with the usual alms-giving. Six thousand masses shall be said for his soul, and for each of them shall be given as alms four ryals. One fourth of the masses shall be said in the parish church, and the others in the churches and convents where the executors shall think fit, the same to be done with all possible speed. 400 doubloons, of two crowns of gold each, are to be delivered out of his estate to Don Matthias de Escolar for distribution as directed, without any account being demandable by any judge or other person whatsoever; and if such account be demanded, he is to take the sum by way of legacy. Each of his executors is to have 200 doubloons of two crowns. The executors nominated by him are the said Don Matthias de Escolar, Jeromino Guerrero, Don Balthasar de Cabredo, Don Antonio de Cendoya and Mr. Francis Arthur and Bruno Bernardo de Quiros, who have full power to receive and recover all his estate in Spain and elsewhere, and to sell the same, if they think fit, and with the proceeds to perform and pay all that shall be contained in the Will, and to substitute the executorship as they shall think fit, which powers shall continue as long as shall be necessary, although the time allowed by law be expired. The residue of his estate, after performing the Will, he leaves, nominates and institutes for his universal heir, his soul, to the end that, as far as may be convenient for his salvation and the suffrage thereof, she may inherit the same, with the blessing of God. And, to the end that this may be performed, the executors are to convert and distribute the said residue as they shall think most pleasing to God and for the benefit of his soul, without accounting to any person whatever, unless they think fit so to do to any competent judge, without oath. He annuls all other Wills and dispositions, and passes this Act before a notary of Madrid on 30 March 1696, in the presenec of Don Thomas Pardo, Don Manuel Fernandez de la Concha, Don Diego Noret, Don John Manhe and Don John de Nesquala, his servants. He did not sign the same himself, being disabled by the palsy in his right arm and hand, but Don Manuel Fernandez de la Concha signed it, at his request, before the Notary Francisco Lazaro Mayoral. *Signed* also below by the said Mayoral on 7 August 1697. Then follows a Declaration of three Notaries attesting that Mayoral is a Notary of credit, and also an Attestation of the Chief Visitor, under the Cardinal Manuel Frz. Porto Carrero, that Mayoral and the other three Notaries are Notaries and the like from the first Notary of the magistracy of Madrid, and also that John de Cordoba, who attests the other Notaries, is Chief Visitor. *Signed and certified* as a true translation of the original in Spanish delivered to him by Don Phelipe de la Guerra and to him re-delivered, by Ant. Wright, Notary, London, 4 Oct. 1697.

No. 4. An Abstract of several legacies and dispositions put into form and written by the executors of Sir William Godolphin, according to instructions given by him to them, which are contained in several Clauses as followeth :—

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The 1st is about his burial and other ceremonies belonging to it, which he left to the discretion of his executors.

The 2nd and 3rd is upon the same.

4. That they have paid the 400 pistoles ordained in the Will to Don Matthias de Escolar.

5. Item, 200 pistoles to each of the six executors, as is ordered in the Will.

6. Item, 150 pistoles ordered to be paid to customary pious uses, which those that die in that country are obliged to pay by law, and is for the redeeming of captives out of Barbary, &c.

7. Item, a legacy that amounts to about 4,896 pistoles, which he ordered to be distributed amongst his domestics, which were in all twenty-seven persons.

8. Item, 1,600 pistoles given to several persons, his friends and acquaintances, which were in all nineteen persons, but ten or twelve of them are poor children, to whom he left the said legacies for a help towards their marriage.

9. Item, 1,000 pistoles that he ordered to be distributed amongst twelve persons, most English and Dutch.

10. Item, 850 pistoles that he ordered to be given to fourteen persons, ten of which were poor women.

11. Item, 320 pistoles that he ordered to be given and distributed amongst eight persons, his friends.

12. Item, 1,300 pistoles, which he ordered to be given amongst eight convents of his devotion.

13. Item, 2,000 pistoles, which he ordered to be distributed among the children of two persons of quality that were fallen into decay.

14. Item, 500 pistoles to a person of quality's widow.

15. Item, the value of 2,400 pistoles to the Hospital General in Madrid.

16. Item, he ordered to another hospital the value of 500 pistoles.

17. Item, to the College or refuge for poor girls, orphans, the value of 500 pistoles.

18. Item, for a help towards building of a church, the value of 300 pistoles in jewels.

19. To another hospital in Madrid the value of 280 pistoles.

20. To another hospital in Madrid the value of 135 pistoles.

21. To the begging friars of St. Francis 65 pistoles.

22. To another hospital in Madrid 100 pistoles.

23. To two convents and for the redemption of captives 978 pistoles.

24. Item, he ordered the sum of 3,125 pistoles to be distributed amongst several people, and most of it towards marrying of orphans.

25. Item, to several colleges and seminaries 1,200 pistoles.

36. Item, to the Hospital of Barcelona, Ceuta and several others in the frontiers of the Moors, and to the poor people and widows &c. of Ceuta 1,500 pistoles.

27. To Mrs. Mary Stafford some jewels which are not valued.

28. To help the rebuilding of a church, 25 pistoles.

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29. To the Procurator-General of the Dominicans 2,000 pistoles, to be employed in pious works.

30. Item, 2,000 pistoles more, to be employed in sending of missionaries to convert infidels.

31. To Mr. Edw. Meredith,* Sir William Godolphin's kinsman, 5,000 pistoles, upon several conditions, to be divided among others.

32. Item, to the said Mr. Meredith 3,000 pistoles for himself, his heirs and successors.

33. He ordered 2,000 pistoles to be given to the College of St. Omer in Flanders.

34. To the said College 1,000 pistoles more.

35. To the Convent of Nuns in Gravelen [Gravelines] 1,000 pistoles for the portion of four gentlewomen, being children of persons of quality in England.

36. To the said Convent 150 pistoles in alms.

37. To the English College of Liège 1,000 pistoles.

38. To the English Dom[inican] Convent in Flanders 500 pistoles.

39. To Sa. Doña Dorothea de Cendoya 3,000 pistoles in order to match her daughter.

40. To the Hospital of St. Andrew, belonging to the Flemings in Madrid, 100 pistoles, 1,700 pistoles for a foundation in St Basil as an alms.

41. For another foundation that he ordered to be made, as executor and heir of Sa. Doña Catharina Catchcart 1,525 pistoles.

42. To another foundation and dotation of orphans in Spain 2,750 pistoles.

43. For two particular gentlemen 150 pistoles.

44. To Mr. Francis Godolphin, his nephew, for himself, his heirs and successors, all the lands and revenue of lands that the said testator has in England, and, besides, 7,000*l.* sterling for himself, and 4,000*l.* for his four children, to be equally divided amongst them. Item, to Mrs. Elizabeth Godolphin, sister to the said Francis Godolphin, 4,000*l.* sterling, and to Mr. Charles Godolphin, her husband, 1,000*l.*; And to Mr. Francis Blewett 200*l.*, and to Mr. John Mawson, Mr. Miles Philipson, William Rowley, Anthony Keck, Robert Nettles, all five trustees to the said Sir William Godolphin, 100*l.* each. And that all these legacies shall be paid out of the effects that are in the Kingdom of England and nowhere else. And we, the executors, have already declared and explained farther this Clause by an Instrument under a Notary public, which we did by motive of the said Mr. Francis Godolphin, being then at this Court of Madrid, ready to go to England, and to carry along with him, as he did, the said Instrument or Declaration. And these legacies being performed and paid, the will of Sir William Godolphin was, that the remainder or overplus of the effects in England should be applied and given to the poor of the said Kingdom of England, distributed by the hands of one or more persons that shall be appointed by us the executors, giving to each of them that shall be so named 100*l.* for their pains, which sum shall be allowed out of the said overplus that will remain in England.

* Edward Meredith was Sir William Godolphin's Secretary. He was a well-known Roman Catholic controversialist and was present at the conference between Archbishop Tenison and Andrew Pulton, the Jesuit, on 29 September 1687.

And so we, the executors, do declare and manifest it, in order that it shall be executed accordingly. 1697-8.

45. He ordered another foundation for pious works in the City of Segovia in Spain that amounts to about 6,000 pistoles.

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46. This Clause speaks only about the difference of the money of England, Spain and Venice, the said Sir William Godolphin having left effects in several dominions and provinces in Europe.

47. In this the four gentlemen approve the executors that Sir William appointed in his last Will and Power.

48. Item, he constitutes his soul to be his heir, viz., that, after having paid and performed what he has ordered in his Will, the remainder of all his estates, goods, and effects whatsoever shall be distributed and applied in alms and pious uses for the benefit of his soul.

Endorsed. Delivered by Don Phelipe. Dispositions 11 Jan. 1697.

No. 5. Copy of Sir William Godolphin's Will of 22 March 1668-9. The testator, William Godolphin, of the Inner Temple, London, Knt., bequeaths his soul and spirit to God, and commits his body to the earth, desiring to be buried in Westminster Abbey, in case he dies within any competent distance of London. He bequeaths to his nephew William, the eldest son of his brother Francis, and his heirs, all his estate in Cornwall devised to him by his father, situate in the parishes of Lansallas [Lansalloes], St. Veep, St. Minver, St. Teats [Teath], St. Neot, &c.; to his nephew Francis, the second son of his said brother, 500*l.*; to his brother Sir John Godolphin, Knt., and his uncle Francis Bluett [Blewett], 100*l.* each; to his cousin Edward Meredith 50*l.*; to his aunt Painter 10*l.* and to her son George Painter 20*l.*; to his servants Joseph Stanmont and Thomas Gray 10*l.* each; to his friends Dr. John Fell, Dean of Christ Church, Oxford, John Cooke, Esq., Dr. Jenkins, Judge of the Admiralty, Henry Bole, Chaplain to L. Arlington, 10*l.* each; to his servant William Penrick 10*l.*; to his cousin Mrs. Jane Davis, 10*l.* With regard to certain lands in Conello, co. Limerick, Ireland, granted lately by the King to testator and his heirs, of which the testator stands seized, as to one third part, in trust for Sir Robt. Southwell, Knt., and as to another third part for Thos. Lloyd, of Gray's Inn, Gent., the testator gives one moiety of his own third part and of all other his part and property of the said lands in the said Kingdom of Ireland to his sister Ruth, wife of Valentine Greatrakes, Esq., and her children, failing which, to his own right heirs, and the other moiety, together with 100*l.*, to his servant Richard Gerald for his life, and after his death, to the said Ruth and children, failing which, to his own right heirs. He leaves also to the poor as follows, viz., of St. Mabia [Mabyn] parish in Cornwall 10*l.*, of the town of Camelford 20*l.*, and of the town of Liskeard 10*l.* 3,000*l.* is to be raised out of his remaining estate, real and personal, for such uses as hereafter shall be appointed, and failing such appointment, to be applied by his brother Francis, Dr. John Fell, Dean of Christ Church, Sir Philip Warwick, Bart., Dr. Richard Allestine [Allestree], Provost of Eton College, and John Cooke, Esq., Secretary sometimes to Sir William Morris, or their survivors, for the education and maintenance of poor scholars, the relief of decayed virtuous gentlemen, the redemption of prisoners, the placing out poor children to trades, or any other pious and charitable uses at their

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discretion. He leaves the residue of his estate, real and personal, after payment of his funeral expenses and the said legacies, to his brother Francis and his friend John Woolfe, Gent., to be his executors. *Signed* by Testator in the presence of Hen. Bluett, Humphrey Forester, H. Sheres, John Trenchard and John Richards. A memorandum also of 22 March 1668-9, signed by testator and witnessed by Rich. Gerald, adds that, having forgotten to give any legacy to John Woolfe, one of the Commissioners for managing his estate and an executor of his Will, he leaves him 20*l*. *Certified* to be a true copy by John Folles. 20 Jan. 1697.

No. 6. Administration granted to Mr. Fra. Godolphin and his sister Elizabeth, with Memorandum, annexed, of several legacies and bequests under Sir William Godolphin's Will of 1696, directed by the testator to be put in writing by Don Antonio Cendoya and subsequently approved, viz. To his nephew Francis Godolphin, Esq., all his lands in England and 7,000*l*., besides 1,000*l*. apiece to Francis' son and three daughters. To his niece Mrs. Elizabeth Godolphin, wife of Hon. Chas. Godolphin, 4,000*l*., and to her husband 1,000*l*. To his uncle Mr. Francis Blewett 200*l*. The Memorandum is sworn and signed 18 Sept. 1696 by Thomas Gray, John March and Luis Cavallero, in the presence of William Thomas, Jezreel Jones, and Samuel Alston.

(b) Letter from Sir William Godolphin to Mrs. Eliza Godolphin, as follows:—

"Madrid. July $\frac{1}{2}$ ^o, 1695. Dear Cousin. I dare not adventure upon any of the excuses I have for my long silence, being assured that a tedious letter would operate nothing of that kind so efficaciously upon the generosity of your mind, as the asking your pardon. I most heartily congratulate to you the felicity you enjoy in the dear pledge you have given our family, my little nephew, godson and namesake, and your son, graduations all of much endearment to me, and for which I render you many thanks, and pray God to improve and prosper these beginnings into all farther degrees of happiness which your heart can desire. This is to be the only subject of this letter, and the only letter I can write at this time, and therefore desire it may serve also with my nephew, congratulating again this blessing to you both, and assure him it will be a kind of charity to extend his patience with my not writing yet a little farther; for though the fire and swelling which affected and tied up my right hand and arm for many months, and the weakness of my nerves, occasioned by a sprain and force they suffered in a fall I had, leaping out of my coach in the river to the bank-side, be (I praise God) abated, and my hand strong enough to write a little, yet I dare not exceed, nor even at this time any farther than to implore God Almighty's blessing on my godson, and to assure his parents that I am,

Their most affectionate and humble servant,
WM. GODOLPHIN."

Addressed to Mrs. Eliza Godolphin at Mr. Francis Godolphin's house in Golden Square, London.

(c) Provisoos, marked A, to be added at the end of the Bill. *Signed* Nath. Wright, B. Shore.

1227. Feb. 28. Twyford v. Hilliard.—Petition and Appeal of James Twyford and Sarah, his wife. Gabriel Goodman, being seized of

the manor of Kilmersdon and other lands in Somersetshire, and having only two daughters, Sarah, the wife of Appellant, and Mary, settled his estate in 1679 upon Sir William Meyrick and others to the use of himself for life, after to his trustees for 99 years for the equal benefit of his daughters during their lives, and after their deaths, one moiety to the use of the first, second and tenth son of Sarah and the issue male of such son, and the other moiety to Mary's issue male, failing which, in equal moieties to the issue female of Sarah and Mary, and, in case either of them died without issue, the issue of the other to have the whole. Sarah has issue by the Appellant, George, her eldest son and heir, but Mary, who first married one Bloome and subsequently the Respondent Hilliard, has no child. After Goodman's death in 1679, the Appellant, by direction of the trustees, managed the estate and paid the one moiety to Mary, accounting to the trustees yearly. These accounts were always allowed by Mary and her late husband till 1691. There were some coal-works on the estate, open but worked out in Goodman's lifetime, which Goodman directed the trustees not to work, as being unprofitable, but to take an eighth of the whole profits, clear of all charges. The trustees therefore refused to incur any expense therein on Mary's account, but gave Appellant leave to adventure, on the condition that he laid out to Mary the moiety of the eighth free. Appellant at great expense worked the mines on his own account, and for eight or nine years accounted to the trustees, and paid Mary and her husband their share free. Notwithstanding this, in 1692 Mary brought a Bill in Chancery for a partition of the moiety of the estate and an account. Appellant assented to such partition for life, and submitted to come to an account since 1691, and set forth three contracts for years for fines and at a rack-rent made by him, viz., of Oranges Farm to Ralph Stocker, the parsonage, &c. to Thomas Young, and the coal-works to Anthony Stocker, but insisted that Sarah and Mary, being only tenants for life, had no power to work the coal mines, and were therefore not entitled to any profits of them beyond their eighth free, but that the said profits were to be accounted for to the right heir-at-law in whom the reversion of the estate was vested, and who was no party to the Bill. Pending the suit, Mary married Mr. Hilliard, and the Cause, being revived, was heard on 14 November 1694, when the Court set aside the contracts as fraudulent and made without authority, and decreed Appellant to pay a moiety of all the profits of the whole estate, as certified by the Master, who was to appoint a person to manage the coal-works. This decree was affirmed on a re-hearing on 22 Feb. 1694-5, when the Court further ordered the Master to certify what new mines, if any, had been opened by Appellant since Goodman's death, and what timber he had felled on the estate. On the motion of Respondents, the decree was split, the Court on 20 Dec. 1695 ordering the Master to take the account touching the parsonage and Orange Farm separate from that relating to the mines and timber. The Master on 27 May 1696 made a report, to which Appellant took exceptions, certain of which were allowed. Although Respondents had received from Appellant 551*l.*, being 238*l.* over and above their demand of 337*l.*, they obtained an Order that the trustees should not join with Appellant in granting any leases or raising any moneys on the estate. George Twyford, being the right heir apparent to Mary and Sarah, and entitled to the reversion and the coal mines, brought in 1694 a Bill in Chancery to stay waste, and the Court having allowed a demurrer thereto, he brought a Bill for the same purpose in the Exchequer, and also his actions at law to try his right to the coal-works, both of which suits the Court of Chancery stayed by Injunction in 1696, on a Bill filed by Hilliard

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and his wife with regard to the coal-works, as to which 551*l.* was to be allowed to Appellant. The Master reported on 14 July 1696 that all the pits out of which coal was taken were sunk since Goodman's death by Appellant, but, as to whether they were new mines and veins or only the continuation of old ones, the Master recommended to be left for a trial at law, the matter being obscure. The Court, on hearing exceptions on 14 Dec. 1696, ordered an account to be taken of the coal-works, and that Twyford should pay one moiety thereof, but refused to allow a trial at law. On 15 July 1697 the Master reported the Appellant to account to Respondents for 1,356*l.* without making any allowance for the 551*l.* or for his expenses in working the mines, amounting to more than 3,000*l.* Appellant has put in exceptions, but cannot get them heard. Although Respondents in their Bill only sought relief for the profits of coal-mines discovered since Goodman's death, the Court has decreed Appellant to account for the profits thereof as old mines open in Goodman's lifetime. The infant as well as the two Stockers and Young, all of whom are prejudiced by this decree, have never been made parties and allowed to make their defence. Appellant has been ordered to pay the Respondents 337*l.*, and been committed to prison, though it was proved that he had paid Respondents more than would satisfy their demand. Pray that the decrees, orders and proceedings complained of may be reversed, and Appellant restored to his possessions. *Signed* by Appellant and by George Twyford, *per* his guardian. *Countersigned* R. Osborne, Geo. Sawyer. L. J., XVI. 221. [At the Hearing on 8 April *Sir Bartholomew Shore* and *Mr. Northey* were heard for the Appellants and *Mr. Serjt. Wright* and *Sir Thomas Powys* for the Respondents. MS. Min. The Appeal was dismissed with 20*l.* costs. L. J., XVI. 260.]

Annexed:—

(a) 12 March 1697-8. Answer of William Hilliard and Mary, his wife. The coal-works had been worked time out of mind before Goodman's death. Goodman conveyed the estate to the trustees to the use of himself for life, and bequeathed one moiety to the trustees for the term of 99 years for the use of his elder daughter Sarah, in trust for her, and after the said term to support the contingent remainders. The said Sarah was entitled to take the rents and profits. After her death portions were to be raised for her younger children. After the end or other sooner determination of the term the moiety was to go to her sons in tail, with remainder to her daughters in like tail, and remainder over, failing such sons or daughters, to the trustees for the like term, and afterwards for the Respondent Mary's life upon the like trusts for her, and after her death, to the like uses of her son and daughters, with remainder over to the heirs and assigns of Gabriel Goodman. He bequeathed the other moiety in trust for Mary and her children for the like terms and estates as Sarah's moiety, and with like cross remainders over, in default of such issue, in trust for Sarah and her children, and the last remainder to Goodman's heirs and assigns. Goodman by his Will, dated 18 Oct. 1679, confirmed this settlement of lease and release, with certain alterations, and declared his intention, by writing produced in the Court of Chancery, that the coal-works should be carried on after his death as he directed. Goodman soon afterwards died, Mary being then 12 years old, but Sarah of full age and married to Twyford, who went and lived on the manor and induced the trustees, who were men of great affairs of their own and living at a distance, to depute him to manage the estate

and coal-works. Twyford imposed on Mary, who was then living at a distance in Kent, in the accounts he rendered, and withheld from her the full moiety to which she was entitled. Oranges Farm, worth 80*l.* a year, which he said he had sold to Ralph Stocker for two lives for 400*l.*, would at that time have yielded at least 800*l.* for two lives. The parsonage and tenements called Emblett's and Horlers, which he said he had let to Tho. Young, his coachman, for seven years at 50*l.* a year, were worth quite 100*l.* a year. The coal-works he said he had let to Anthony Stocker for 16 years, on payment of the lord's share, being an eighth part of the money taken for coals. Twyford then refused to account with Mary for more than a moiety of 100*l.*, part of the pretended fine for Oranges Farm, and for moieties of the 50*l.* rent and of the free share of the coals, and this only on condition that Mary would confirm the leases and contracts. His object was to force Mary to sell her moiety to him for 1,500*l.*, as he proposed, whereas it was worth fully 7,000*l.* Mary thereupon in 1692 brought a Bill in Chancery against Twyford and his wife and the trustees to avoid the contracts and have a fair account and partition, and a proper person appointed to manage the coal-works. Appellants did not insist, until after the suit was revived, that they were entitled to the profits of the coal-mines opened since Goodman's death. The order of 4 Dec. 1695 forbidding the trustees to make any leases or grants of Appellants' moiety of the estate, was made by consent of Appellants' Counsel. The Master on 11 Feb. 1695 reported Appellants' costs for the first hearing of the Cause at 164*l.*, being 97*l.* less than Respondents' costs. In his Report of the profits of Oranges Farm and the Parsonage, &c., on 27 May 1696, he certified 226*l.* due to Respondents. In 1693 James Twyford caused a Bill to be brought in Chancery in the name of George Twyford, the infant, by his guardian William Freeman against Mary, James and Sarah and the trustees for an account of the coal-works, which Bill was brought without Freeman's consent or privity. The Court, finding this Bill vexatious, ordered James Twyford to give security, pending which the Cause to be stayed. This suit is still pending undismitted, and Appellants may proceed in it, if they choose, to try the infant's right. In 1695 (not 1694) the Appellant George, by one William Swift, styled a gentleman but in reality a tailor, as his guardian, brought a Bill in Chancery against Respondents, the trustees, and the manager of the coal-works, not only to stay a pretended waste, but also to have a discovery of certain matters to which Respondents were not legally obliged to answer, and their demurrer was allowed. Appellants have in the infant's name arrested several of the coalminers, requiring 2,000*l.* bail apiece, and for want thereof have carried them to gaol, and threatened not only all the workmen but also customers. They also designed to bring a Bill in the Exchequer, in the infant's name, to get an Injunction, under colour of staying waste, and prevent the miners from working, and so drown the mines, rather than that Respondents should have a moiety of the profits. Respondents thereupon brought a further Bill in Chancery against them to prevent this and quiet the manager and workmen, &c., and the Court of Chancery, having priority of suit, enjoined the Exchequer from proceeding on the Bill which Appellants afterwards brought there. The Master, in his Report touching the coalworks on 14 July 1696, certified that the question as to old

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and new mines was partly obscured by the mismanagement of the Appellant in working them, who endeavoured to make some of the pits appear new mines, to exclude Mary from her share. The Master, by a further Report on 15 July 1697, certified 1,356*l.* due to Respondents on account of their moiety of the coal-works. The hearing of the Appellants' exceptions to this Report has been ordered to stand over till 3 March, notwithstanding that Respondents have been willing to expedite the hearing, as the exceptions are brought merely for delay. Appellant, who is a prisoner in the Fleet, has purposely made over his estate to others, to prevent Respondents obtaining their due. Pray that the Appeal may be dismissed with costs, as vexatious. *Signed* by Respondents. *Countersigned* Wm. Banastre, Tho. Filmer. *Endorsed* as brought in this day.

(b) 12 March. Petition of Respondents for a day for hearing. L. J., XVI. 233.

(c) 18 March. Petition of Respondents. Certain deeds and writings in the Cause, some of which were produced in Court at the Hearing, have been brought in and left with Mr. Keck, a Master in Chancery. The Appeal is signed by two Counsel who were never in the Cause, contrary to their Lordships' Standing Order of the 3rd inst. Pray that the Master may be ordered to produce the deeds at the hearing of the Appeal, and that the Counsel who signed the Appeal may then attend as Counsel for the Appellants. *Signed* by William Hilliard. L. J., XVI. 240.

(d) 21 March. Petition of Respondents. Appellants have not entered into Recognizance. Pray that they may be ordered to procure a sufficient surety, or that the Appeal may stand dismissed. *Signed* by William Hilliard. L. J., XVI. 241.

1228. March 1. Duncombe's (Exchequer Bills) Bill.—Commons' Engrossment of an Act for punishing* Charles Duncombe, Esquire, for contriving and advising the making of false endorsements of several Bills made forth at the receipt of Exchequer, commonly called Exchequer Bills.

§ i. Whereas by an Act made in the Parliament holden at Westminster in the eighth year of his now Majesty's reign, intituled An Act for granting an Aid to his Majesty as well by a Land Tax as by several Subsidies and other Duties payable for one year, it was amongst other things enacted that it should be lawful for the Commissioners of his Majesty's Treasury or any three of them to cause Bills to be made forth at the Receipt of Exchequer, in such manner and form as they should appoint, for any sum or sums of money not exceeding fifteen hundred thousand pounds by virtue of that Act, and that the said Bills should be current to the Receivers or Collectors of any Aids, Taxes or Supplies thereby granted, or that should be granted, for the service of the War for the year one thousand, six hundred, ninety seven, except for the Aid of three shillings in the pound; And whereas, by an Act made in the same year of his now Majesty's reign, intituled An Act for making good the deficiencies of several funds therein mentioned, and for

* Charles Duncombe made a large fortune as a goldsmith in the City of London. Under Charles II. and James II. he held the receivership of the Customs. He was member, in the Tory interest, for the borough of Downton in Wiltshire from October 1695 to his expulsion from the House of Commons in 1698. He was elected an Alderman in 1700 and was Lord Mayor of London in 1708. He died in 1711.

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enlarging the capital Stock of the Bank of England and for raising the public credit, it was amongst other things enacted that the said Bills should pass and be current to all and every the Commissioners, Receivers or Collectors of any Revenue, Aid, Tax or Supply whatsoever, granted or to be granted during that Session of Parliament, either for the War or any other use, and also at the Receipt of Exchequer from the said Commissioners, Receivers or Collectors, or from any other person or persons making any payments there to his Majesty upon any account whatsoever; and, that no interest might be allowed on the said Bills for any longer time than the same should be unanswered to his Majesty, it was thereby likewise enacted that the person who paid in the same to any Receiver or Collector should at the time of such payment put his name and the day of the month on the said Bills, and when the said Bills should be received at the Exchequer, Custom-house Excise office, or by any of his Majesty's Receivers or Collectors, should be applicable to the satisfaction of Tallies and Orders of Loan, and, by reason thereof, were not to be immediately cancelled, Then the respective Tellers in the Exchequer, Receivers, or Cashiers of the Custom, Excise, or any other Receivers, upon their issuing out the said Bills, should sign the same and add the day of the month, and so *toties quoties*, until they should come into the Exchequer upon the account of the fund upon which they were first issued; And it was thereby further enacted that it should be lawful for the Commissioners of the Treasury or any three of them to agree with any persons for the immediate lending of money for exchanging such Bills as should not be accepted in the payment of Tallies and Orders; And whereas by an Act made in the same year of his Majesty's reign, intituled an Act for granting to his Majesty a further Subsidy of Tunnage and Poundage upon merchandises imported for the term of two years and three quarters, and an Additional Land Tax for one year, for carrying on the War against France, it was (amongst other things) enacted that it should be lawful for the Commissioners of his Majesty's Treasury, or any three of them, to cause Bills to be made forth at the Receipt of Exchequer for any sum or sums not exceeding twelve hundred thousand pounds, in such proportion nevertheless as that there should not be at any one time standing out above two millions in principal money, and that the said Bills should have the like currency as the Bills for the said fifteen hundred thousand pounds, and it was thereby likewise enacted that the said Commissioners of his Majesty's Treasury should have power to agree with any persons for the advancing or lending such further sums for the exchanging such of the said Bills for twelve hundred thousand pounds as should not be accepted in the payment of Tallies and Orders; And whereas, by virtue of the said power, the Commissioners of the Treasury did cause several Bills to be made forth at the Receipt of Exchequer to a very great value, and did likewise contract with several persons for advancing money for exchanging such of the said Bills as should be issued and should not be accepted in satisfaction of Tallies and Orders of Loan; And whereas it appears, as well by proof as by the voluntary confession of Charles Duncombe, Esquire, late Cashier of his Majesty's Revenue of Excise, openly made in the House of Commons, That he, the said Charles Duncombe, is guilty of contriving and advising the making false endorsements of several of the said Bills, and paying the same into the Receipt of Exchequer as if received for Excise, whereas he well knew that the said Bills had not been received for the said duty, in great deceit to his Majesty and corruptly making an unlawful gain to himself; Be it therefore enacted,

1697-8. &c., That the said Charles Duncombe shall (as a just punishment for such his high crimes and misdemeanours) forfeit to his Majesty, his heirs and successors, two third parts of all his manors, lands, tenements, rents, reversions, remainders, rights, conditions and all other hereditaments, which he or any other person or persons in trust for him was or were seized of upon the five and twentieth day of January, one thousand, six hundred, ninety seven, or at any time since, and two third parts of all his goods and chattels which he or any other for him was or were possessed of, or to which he had right the said five and twentieth day of January or at any time since, and shall be for ever hereafter incapable of having or holding any office or place of profit or trust under his Majesty, his heirs or successors.

§ ii. And be it enacted by the authority aforesaid, That as well the said two third parts of all and singular the said manors, lands, tenements, rents, reversions and other hereditaments, as the said two third parts of all and singular the said goods, chattels, debts and other the premises by this Act forfeited, or intended to be forfeited, to his Majesty, shall be, and are hereby, deemed, vested and judged to be in the actual and real possession of his Majesty, without any Office or Inquisition thereof to be taken or found.

§ iii. Saving to every person and persons, bodies politic and corporate, and to the heirs, successors, executors and administrators of every of them respectively (other than the said Charles Duncombe and his heirs, and except all and every other person and persons claiming or having anything in the premises or any part thereof to the use or in trust or for the benefit of the said Charles Duncombe and his heirs or any of them) all such right, title, interest, rents, entry and benefit in law or equity which they or any of them have or ought to have of, into or out of any the premises not derived from, by or under the said Charles Duncombe since the said five and twentieth day of January, one thousand, six hundred, ninety seven. *Parchment Collection*, [Brought from the Commons this day. L. J., XVI. 222. For proceedings on the Bill, which was rejected on 25 March and Duncombe discharged, see notes to No. 1232.]

1229. March 2. Woollen Manufactures Bill.—Petition of several merchants of the City of London trading to Ireland. The Bill To encourage the Woollen Manufacture in England, and to restrain the exportation of woollen manufactures from Ireland into any foreign parts, and for better preventing the exportation of wool from England and Ireland, would much prejudice the English interest of Ireland and the trade of England. Pray to be heard by Counsel against the Bill. *Signed* by William Brown and 23 others. L. J., XVI. 223. [For the Bill, see No. 1216.]

Annexed :—

(a) 7 March. Petition of persons signing. The provisions of the Bill will be very prejudicial to petitioners and to all others who have estates or interests in Ireland, and likewise very destructive to the trade both of England and Ireland. Pray to be heard by Counsel against the Bill. *Signed* by L. Inchiquin and 40 others. L. J., XVI. 228.

(b) 11 March. Petition of the Clothiers of Bocking, Braintree, Coggeshall, Witham, Dunmow, Stebbing and the towns adjacent in the county of Essex, in behalf of themselves and others. The woollen manufactures in England have been and still are the greatest spring of its wealth. The increase of such in Ireland in imitation of English, and the exportation of them

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direct from Ireland to foreign markets usually supplied from this Kingdom, is extremely prejudicial to the English trade, and in time may destroy it and ruin Petitioners, and also lessen the rents of land. The Bill will very much tend to prevent these mischiefs. Pray that the Bill may pass. *Signed* by John Peers and 98 others. L. J., XVI. 232.

(c) 12 March. Petition of the Mayor, Burgesses, Assistants, Gentlemen, Tradesmen, and other Inhabitants of and in the town and parish of Tiverton and parts adjacent in the county of Devon. Similar to preceding Petition. Pray that the Bill may pass. *Signed* by John Upcott, Mayor, and 482 others. L. J., XVI. 232.

(c¹) Account of persons gone from Tiverton in Devon to carry on the woollen manufacture in Ireland. A list is given of 20 names, *attested* Wm. Morgan Jo. Caniton.

(d) 12 March. Petition of the Tradesmen in the Woollen Manufactures of the ancient borough of Colchester. Identical with (c). Pray that the Bill may pass. *Signed* by Nathaniel Lawrence and 69 others. L. J., XVI. 232.

(e) 12 March. Petition of the Mayor, Aldermen, Common-Council, Merchants, Clothiers, Fullers and other Traders of the City of Exon. The woollen manufacture in England has been much lessened by the Irish, who are rivals in the trade, and by reason of the cheapness of their wool, wages and provisions, supplant the English in foreign markets, to the ruin of the trade and the diminution of the value of land in England. The Bill will tend very much to prevent these mischiefs. Pray that it may pass. *Signed* by John Curson, Mayor, and 1364 others. L. J., XVI. 232.

(e¹) List of persons trading in and depending upon the manufacturing of serges within the City of Exon and parts adjacent, lately removed from thence into the Kingdom of Ireland. The list gives 120 names. *Certified* 12 March 1697-8 by the Master, Wardens and Assistants of the Incorporation of Weavers, Fullers and Sheermen within the City of Exon.

(f) 15 March. Petition of Clothiers and others concerned in the making of serges within the town and parish of Crediton, in the county of Devon. The manufacture of serges is the main support and livelihood of multitudes of poor families in the place, and Petitioners are under great discouragements, chiefly occasioned by setting up the woollen manufacture in Ireland, where, being exempted from many duties imposed on the same in England, they can undersell Petitioners very considerably, and thereupon are much encouraged by foreigners, so that many English workmen have removed to Ireland, for want of employment here. Pray that the Bill may pass. *Signed* by Thomas Ley, Vicar, and 462 others. L. J., XVI. 234.

(g) 15 March. Petition of Gentlemen, Freeholders, Traders and other Inhabitants of Moreton-Hampstead, in Devon. The trade of the town, which consists in serges, has been much decayed of late by the multitudes of serges made in Ireland, and the growth of that trade there, being much cheaper made there by reason of the low price of their wool and provisions and labourers, whereby they undersell the English and encourage foreigners to lay their stocks out with them, who formerly were obliged to have all their serges from England, so that unless a remedy be found, the English trade will be wholly lost and the poor increase beyond

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- the power of maintaining them. Pray that the Bill may pass. *Signed* by Matthew Nosworthy and 103 others. L. J., XVI. 234.
- (h) 15 March. Petition of the Port-reeve and other Traders and Inhabitants of the town of Ashburton, in the county of Devon. Almost identical with (f). Pray that the Bill may pass. *Signed* by Richard Tapper, Portreeve, and 228 others. L. J., XVI. 234.
- (i) 15 March. Petition of the Gentlemen, Clothiers and other Traders in the town and borough of Honiton and parts adjacent. Identical with (b). Pray that the Bill may pass. *Signed* by Richard Gill, Portreeve, and 108 others. L. J., XVI. 234.
- (k) 15 March. Petition of the ancient town of Ottery St. Mary, in the county of Devon. Petitioners have been great sufferers through the growth of the woollen manufacture in Ireland, and the poor rates are double now what they lately were. Pray that the Bill may pass. *Signed* by Henry Wells and 240 others. L. J., XVI. 234.
- (l) 15 March. Petition of Inhabitants of town of Bampton, in the county of Devon. Identical with (b). Pray that the Bill may pass. *Signed* by John Tristram and 124 others. L. J., XVI. 234.
- (m) 16 March. Petition of divers Gentlemen, Clothiers and other Traders in the town of Chard and county of Somerset and the places adjacent. Their Lordships, on the Petition of certain Merchants of the City of London trading to Ireland (see principal paper above), have ordered the said Merchants to be heard against the Bill on 19 March. Pray to be heard at the same time in relation to the Bill. *Signed* by Nathaniel Pitts and 184 others. L. J., XVI. 236. *Endorsed* Petition for the Bill.
- (n) 16 March. Petition of the Mayor, Aldermen, Burgesses and Principal Inhabitants of the borough of Bridgwater, in the county of Somerset. Identical with (b). Pray that the Bill may pass. *Signed* by John Gilbert, Mayor, and 76 others. L. J., XVI. 236.
- (o) 17 March. Petition of the Mayor, Aldermen, Capital Burgesses and others, inhabitants of the borough and parish of Barnstaple, in the county of Devon. Since the late happy reduction of Ireland, many persons skilled in the woollen manufacture of England have settled there, and the trade of that nation being very much improved, the makers and others concerned in the manufacture are, through the abounding plenty of that Kingdom, capacitated to supply foreigners at far cheaper rates than can be done in England, which will probably much lessen, if not ruin, the English trade, and manifestly hinder the employment of many thousand poor people in this Kingdom. Pray that the Bill may pass. *Signed* by Charles Standish, Mayor, and 201 others. L. J., XVI. 238.
- (p) 18 March. Petition of the Clothiers, Say-makers and Tradesmen dealing in the woollen manufacture in and about the ancient borough of Sudbury, in the county of Suffolk. Identical with (b). Pray that the Bill may pass. *Signed* by John Gibbon, Mayor, and 97 others. *Endorsed* as brought in this day. No entry in L. J.
- (q) 21 March. Petition of the Mayor, Justices and Capital Burgesses, and other Principal Inhabitants of the town of Taunton, in the county of Somerset. Identical with (b). Pray

that the Bill may pass. *Signed* by Thomas Mundy, Mayor, and 228 others. L. J., XVI. 241. 1697-8.

(r) 22 March. Petition of the Serge-makers in and about the borough and parish of Wellington, in the county of Somerset. Identical with (b). Pray that the Bill may pass. *Signed* by John Stasey and 131 others. *Endorsed* as dated this day. MS. No. 1229.
Min. No entry in L. J.

(s) 26 March. Petition of divers Gentlemen, Merchants, Factors, Clothiers, Weavers and others concerned in the woollen manufactory in and about the City of London and parts adjacent. Identical with (b). Pray that the Bill may pass. *Signed* by Robert Giffery and 72 others. No entry in L. J.

(t) 28 March. Petition of the Wardens and Assistants of the Company of Worsted-weavers in the City of Norwich and county of Norfolk, on behalf of themselves and the rest of the said trade. Identical with (b). Pray that the Bill may pass. *Signed* by Edward Clarke and 28 others. No entry in L. J.

(u) 3 May 1698. Report of the Commissioners of Customs to the Committee on the Bill. In obedience to an Order of 20 April last, they acquaint their Lordships that in 1696, by order of the Lords' Committee on the State of Trade, they caused to be collected an Account of all the Importations and Exportations to and from the Kingdom for three years then last past, which was contained in twelve books, sent in on 16 Feb. 1696-7, and presumably still in the hands of the Clerk of the Parliaments. The Commissioners, however, have extracted from that collection so much as relates to the trade between this Kingdom and Ireland only, and they send also an Account of Importations and Exportations to and from Ireland for one year ended Michaelmas 1697, which is the most complete account that Mr. Culliford, the Inspector-General of Exports and Imports, can give since his coming into that office. *Dated* Custom House, 2 May 1698. *Signed* Walter Younge, Sam. Clarke, Ben. Overton, H. Hobart, Jo. Austen, Robt. Henley. *Endorsed* as read this day.

(v.) Account of goods exported from the Port of London and Outports to Ireland for three years from Christmas 1692 to Christmas 1695, with an Estimate of their Value. The totals (omitting items) are as follow:—

Classes of Goods particularized.	Estimated Value for year ending Christmas.		
	1693.	1694.	1695.
	£ s. d.	£ s. d.	£ s. d.
Goods of English product and manufacture	97,753 13 4½	108,569 5 9½	95,658 13 5
Foreign goods exported by Certificate	54,637 19 3	37,997 12 3	93,454 18 5
Total Exportation	152,391 12 7½	146,566 18 0½	199,113 11 10
Total Importation	49,915 4 1¼	114,905 8 2¼	83,876 1 5¼
*The value of the Exportation exceeds the Importation	102,476 8 5½	31,661 9 9½	115,237 10 4½

* In this Statement the figures of Total Exportation in year ending Christmas 1695 are 199,113*l.* 11*s.* 10*d.*, but the correct figures should be 189,113*l.* 11*s.* 10*d.*. The excess in the value of Exportations over Importations was therefore 105,237*l.* 10*s.* 4½*d.*

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No. 1229.

(w.) Account of goods imported in the Port of London and Outports from Ireland for three years from Christmas 1692 to Christmas 1695, with an Estimate of their Value. The totals (omitting items) are as follow:—

	Estimated Value for year ending Christmas.		
	1693.	1694.	1695.
Total Imports from Ireland	£ 49,915 4 1 $\frac{1}{4}$	£ 114,905 8 2 $\frac{1}{4}$	£ 83,876 1 5 $\frac{1}{4}$

(x.) Exportations to Ireland from Michaelmas 1696 to Michaelmas 1697. The Account is divided into two Parts, and states the totals of the items enumerated as follows:—

Part I.—Exportations from Port of	£	s.	d.
London - - -	15,395	15	6
Part II.—Exportations from Outports -	217,076	5	5 $\frac{3}{4}$
Total - - -	232,472	0	11 $\frac{3}{4}$

The items, however, which are classified below, are wrongly added up in the above Account, and the totals should therefore be as follows:—

Part I.—Exportations from Port of	£	s.	d.
London - - -	15,396	15	6
Part II.—Exportations from Outports	217,064	16	11 $\frac{3}{4}$
Total - - -	232,461	12	5 $\frac{3}{4}$

Classes of Goods particularised.	Port of London.	Outports.
	£ s. d.	£ s. d.
English manufactures - -	4,029 13 3 $\frac{1}{2}$	131,925 15 6
Foreign goods exported by Certificate in time.	7,969 14 6 $\frac{1}{2}$	71,360 8 5
Foreign goods exported by Certificate out of time.	3,397 7 8	13,778 13 0 $\frac{1}{2}$

(y.) Importations from Ireland from Michaelmas 1696 to Michaelmas 1697. The totals (omitting items) are as follows:—

To London—	£	s.	d.
From Michaelmas 1696 to Lady Day 1697 - - -	580	18	4
From Lady Day 1697 to Michaelmas 1697 - - -	70	2	9
To Outports—			
From Michaelmas 1696 to Lady Day 1697 - - -	143,442	19	5 $\frac{1}{2}$
From Lady Day 1697 to Michaelmas 1697 - - -	102,805	18	5 $\frac{1}{4}$
Total - - -	246,899	19	0 $\frac{1}{4}$

1230. March 3. *Leach v. Thompson* (In Error). Copy Writ of Error and Transcript of Record brought in this day. L. J., XVI. 224. Nicholas Leach, being seized of the manor of Bulkworthy and other lands and tenements in Devonshire, by his Will dated 9 Nov. 19 Car. 2 devised the said property, in default of his own issue, to his brother Simon and his legitimate heirs, and, in default, to his kinsman Sir Simon Leach. On the death of Nicholas, without issue, his brother Simon entered into possession. On 20 August 20 Car. 2 Simon married Anne, daughter of Anton Crook. Five years later he made an agreement purporting to surrender the property bequeathed to him by Nicholas to Sir Simon Leach. On 10 Nov. following Simon Leach had a son, Charles, who on the death of his father claimed the said property, urging that the surrender to Sir S. Leach was void, as his father, Simon Leach, was *non compos mentis* at the time. Judgment was given against Sir S. Leach in King's Bench. A Writ of Error was then introduced into the House of Lords and the Judgment reversed, upon the point that the surrender of the property was a good surrender, although there was no acceptance or agreement by Sir S. Leach before the birth of Charles. (See 14th Report Historical Manuscripts Commission, Appendix, Part vi.) Subsequently, the House refused to grant a Petition of ejectment brought by Sir S. Leach against Thomas Thompson, lessee of Charles Leach, because the Judgment in the Writ of Error was not intended to preclude the parties from trying their title at law upon any other points than the validity of the surrender. L. J., XV. 222. Sir S. Leach and others then forcibly ejected Thompson from the lands in question. Upon this Thompson obtained a Judgment in King's Bench against Sir S. Leach, claiming that the original surrender of the property by Simon Leach was void, as he was *non compos mentis* at the time. The Writ of Error is to reverse the Judgment.

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No. 1230.

[At the Hearing on 19 April, *Sir Bartholomew Shore* and *Mr. Northey* were heard for the Plaintiff, and *Mr. Serjeant Wright* and *Sir Thomas Powys* for the Defendant. Ordered that the Judgment be affirmed and the Record remitted. MS. Min. L. J., XVI. 267.]

Annexed:—

(a) 17 March.—Petition of Charles Leach, Gentleman. Petitioner, in the name of Thomas Thompson, his lessee, has obtained judgment of ejectment in the Court of King's Bench against Sir Simon Leach, John Paddon and Alexander Leamon, who have since brought a Writ of Error. Pray for a day for hearing. *Endorsed* as read this day. L. J., XVI. 239.

1231. March 3. *Barnard v. Leaves* (In Error).—Writ of Error relating to an action claiming 100*l.* which Isaac Barnard agreed to pay to John Leaves in case no town in the Low Countries garrisoned with 2,000 men surrendered to or was taken by the forces of Louis XIV. by 1 September 1693. The consideration or premium was 16*l.* 16*s.* paid by Leaves in May 1693. No such town was taken by the date specified, but Barnard denied receipt of the 16*l.* 16*s.* and refused to pay. Leaves claimed damages for non-payment: the Court of King's Bench decided that he was entitled to recover, and the damages were assessed at 109*l.* 10*s.* besides costs, &c. *Parchment Collection*. [Brought in this day. L. J., XVI. 224. No further proceedings.]

1232. March 4. *Duncombe's* (Exchequer Bills) Bill. Petition of Charles Duncombe, now prisoner in the Tower of London. Prays to be heard by Counsel against the Bill, now before their Lordships,

- 1697-8. where Petitioner is charged to be guilty of contriving and advising the making of false Indorsements of Exchequer Bills. L. J., XVI. 225.
- No. 1232. [The Bill in question was brought from the Commons on 1 March. (*See* No. 1228.) On 4 March it was read 1^a, and a debate arising whether a day should be appointed for a second reading or the Bill rejected now; *Moved* that the Bill lie on the Table in order to have application from the party. *Moved* to have the Question put for rejecting the Bill. After debate, *Question* put: Whether this Bill shall be read a second time. *Resolved* in the Affirmative. Contents 48; Not-Contents 36. Tellers, L. Jeffreys and L. Herbert. The above Petition was then read. *Ordered* that Friday next be appointed for the second reading of the Bill, and that, before the second reading, Mr. Duncombe be heard by his Counsel. A debate arising whether Counsel shall be admitted for the Bill, the said debate adjourned. *Ordered* that the Clerks bring the books wherein Sir Tho. Cooke's case is. Leave given to protest against the vote for the second reading. L. J., XVI. 225. MS. Min.
- 5 March. Adjourned debate resumed. *Proposed* to appoint the King's Counsel to be heard. *Proposed*, a Conference with the Commons upon the subject matter of the Bill. Committee appointed to prepare Heads to be offered at the Conference. L. J., XVI. 226. MS. Min.
- 7 March. In Committee, E. Rochester in the Chair, the words for a message to the Commons were agreed to and ordered to be reported. Com. Book. The Report (Annex (a) below) was agreed to, and a Conference had and reported the same day. L. J., XVI. 227-8.
- 10 March. *Ordered*, on reading Duncombe's Petition (Annex (b) below), that the Governor of the Tower bring him to the Bar to-morrow, and that his witnesses then attend, viz. Samuel Story, Jacob Sheldrake, Hanworth Fitch, John Francis, Francis Repett and Thomas Painter. Conference desired by H.C. L. J., XVI. 230.
- 11 March. Conference held and reported. L. J., XVI. 231. *In extenso*. After debate, *Moved* to consider whether Counsel shall be allowed for the Bill. *Ordered* that Counsel be heard for and against the Bill. Duncombe remanded, and to attend again at the Hearing. MS. Min.
- 15 March. Counsel called in. Leave given for a chair for Mr. Duncombe. *Mr. Serjeant Wright* (for the Bill) is heard to lay before the House what evidence they think proper to prove the allegations in the Bill. *Mr. Dormer* (for the Bill) is heard, and states the fact. We shall produce witnesses, and the Articles of the Commissioners [of] Excise and Mr. Duncombe. They begin with his deputation to his Cashier of Excise, and they read a copy of it. On 4 and 5 May they received out of the Mint 10,000*l*. On 7 May Mr. Duncombe admitted [he was] ordered to pay 7,000*l*. into the Exchequer. *Theophilus Blethington* heard to this. *John Romney* heard. Says Mr. Duncombe removed the money from the Excise Office. The things were removed for Mr. Burton to come in. *Francis Repett* says 21,000*l*. was received. *Da Costa* says he contracted with Mr. Duncombe for some Exchequer Bills. He had eleven Bills, 7,000*l*. and more, and gives account how Mr. Duncombe paid him. He could not get his money in the Exchequer, and cites the days of payment. I delivered the Bills as I had them from the L. Ranelagh's Office, and he said I must sign them, and I did several of them. Mr. Duncombe said: Put your name or any name to them, as I did. He told [me] the Bills must be signed. I endorsed my own name and other names. I wrote Peter Jones. He did not name any name to me; he said only my name or any name. I

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No. 1232.

signed several before I made any scruple. I know no Peter Jones. He was shewed the Bill. I wrote Peter Biggs, and these are part of the Bills I delivered Mr. Duncombe. *Asked* Mr. Da Costa, was 12 May [the] first day? I delivered the Bills 12 May. Whether the contract was the day before or not? I received the Bills out of L. Ranelagh's Office 4 May. *Mr. Peters* says 12 May [there] was brought to him [£]10,809 &c. One part was Exchequer Bills. The whole in Bills was 10,789*l*. This came from the Excise Office, whether by Mr. Duncombe or his Secretary, I do not remember. I took over those signed by Da Costa. I was Clerk to Mr. Palmer. These Bills were passed in our weekly certificates to the Lords of the Treasury. I cannot say Mr. Duncombe said they came from the Excise. Mr. Da Costa had only a name to them. At that time the Trustees had not agreed on a method for signing Bills. I thought them warrantable to me, and so I received them. We had no order not to receive Bills. Some days after, the Trustees agreed on a method, and then we took them otherwise. I had not read the Act, nor had we directions about it. *Presgrave*, asked, Whence came these Bills? (showed him) says, They were paid from the Excise. Mr. Duncombe they came from. I endorsed them 7 May, because to agree with my book. I endorsed them myself. I had no directions from any other whatsoever. *George Brewer* says, All the Tallies are struck in the name of the Commissioners of Excise. [*Counsel for the Bill.*] This is the evidence that was laid before the Commons. *Sir Bartholomew Shore* (for Duncombe) heard against the Bill. We hope you will consider the nature of this Bill. This is to punish a crime when but just thought to be so. Every precedent begets another. Here is no design to destroy the Government. I hope it will never be said our laws cannot give remedy. There is a remedy for this matter. If an offence, an indictment. As to the voluntary confession, I oppose to what has been said. A supposed fraud of 300*l*., which I hope I shall show was none. If we stood before Westminster Hall, we think we had law for us. We affirm no false endorsement. The King has lost nothing. Mr. Da Costa says he knew not what an endorsement meant. At this time there was no such thing as specie Bills. This was a good, lawful payment, and could not be refused. He cites the words of the laws. The Proclamation recites a contract for the receiving of them on all accounts. It had been a good payment, if Mr. Duncombe had died, to his executors. Other people received and paid these Bills, as well as Mr. Duncombe. Here was a good payment at the time. The Trustees refused the Bills, because they were not endorsed. The worst that can be said, is that it was an ungrateful payment, and that is all. *Mr. Northey* (for Duncombe) heard against the Bill. There is certainly a proper remedy. We must stand on the laws when made. This tends to make an explanation of an Act, and make him criminal who was not otherwise. This is a thing of infinite consequence. This is a crime [that may] be determined by law. This will be a precedent, and will be a proper way in other cases. Mr. Da Costa says nothing of endorsements. He has cleared Mr. Duncombe. *Hanworth Fitch*, heard on behalf of Mr. Duncombe. The party [who] pays it, endorses on them for whom it is paid. This Bill is as others, and writ paid for Excise, and dated. Mr. Burton received these Bills the day after he came in. *Jacob Sheldrake* says, About 4 May Mr. Duncombe came to know how all should be received. I had order to receive Exchequer Bills instead of money, [nor] was there any complaint made of Mr. Burton for receiving it, and he gave an account how much was paid in Bills and money. I had that order from Mr. Burton, to accept

- 1697-8. Exchequer Bills for money due in specie. There were orders for this purpose, upon perusal of Acts of Parliament and advice of the King's Counsel, as our instructions say. *John Cooke* says, I was by when Mr. Peters received these Bills. I told Mr. Peters the Bill came from the Exchequer Office, and that the others did not. The Bill was not endorsed when brought. Here is no confederacy or combination proved. *Mr. Peters* asked, Whether the two sums are entered in two lines or not? He says they are entered in two lines. They came in several parcels. Counsel withdrew. Bill read 2^a. After debate, *Moved* not to commit the Bill. *Moved* not to reject the Bill at present, but to commit it, in order to make alterations in it. After further debate, *Question* put, whether this Bill shall be committed? *Resolved* in the negative. Contents 47; Not Contents 48. Tellers, E. Tankerville and E. Sandwich. *Moved* to allow Proxies. Proxies were waived.* [In cases of blood or any judicial cases, though in a Bill, Proxies shall not be used for the future. *Proposed* to put the Question whether this Bill shall be rejected? The Previous Question was put, Whether this Question shall be put. It was resolved in the (*sic*).] *Ordered* that the Bill shall be rejected.† *Ordered* that Mr. Duncombe be discharged from his imprisonment in the Tower. MS. Min.]

Annexed:

- (a) 7 March. Heads for a Conference concerning the reasons which induced the Commons to pass the Bill, *Endorsed*: Delivered at a Conference with the Commons. [Reported this day from the Select Committee and agreed to. L. J., XVI. 227. *In extenso*.]
- (b) 10 March. Petition of Charles Duncombe, prisoner in the Tower of London. Prays for liberty personally to attend at the Hearing by his Counsel, and for an Order for his witnesses to attend. L. J., XVI. 230.
- (c) 11 March. Report of Commons' Committee appointed to state the matters of fact on which the Bill was grounded. C. J., XII. 153. *In extenso*.

1233. March 7. Sir John Churchill's Estate Act.—Amended Draft of an Act to confirm the sale of part of the Estate of Sir John Churchill, Knt., lately deceased, pursuant to his last Will and two Decrees of Chancery for performance thereof. The Lords' two Amendments are to substitute ("Chiver") for ("Oliver"); the Commons' Amendment is unimportant. [Read 1^a this day; Royal Assent 16 May. L. J., XVI. 227, 287. 10 Will. III. c. 61 in Long Cal.]

Annexed:—

- (a) 8 April. Lords' Amendments to the Bill. [Made in Committee 30 March. Com. Book: reported this day. L. J., XVI. 260.]

1234. March 7. Poor Law (Explanatory) Act.—Commons' Reasons for not agreeing to Lords' Amendment to the Bill, For explaining an Act made the last Session of Parliament, intituled, An Act for supplying some defects in the Laws for the relief of the Poor of this Kingdom. L. J., XVI. 227. *In extenso*. [The Bill was brought from the Commons on 16 Feb. *ib.* 212. The Lords made several

* The words in square brackets are struck through.

† The House then amended the Standing Order relating to Proxies, as in L. J., XVI. 235.

amendments. With this one the Commons disagreed. *Ib.* 227. After a conference the Lords decided not to insist upon the amendment in question, and the Bill received the Royal Assent on 2 April. *Ib.* 250. 9 Will. III. c. 11. Fol. Ed.] 1697-8. — No. 1234.

1235. March 11. Burgh's Estate Act.—Draft of an Act for settling certain lands in Essex on Thomas Burgh, Esquire, and his heirs, in lieu of other lands of greater value conveyed by him according to a Decree and the Will of Sir Samuel Jones, deceased. [Read 1^a this day; Royal Assent 16 May. L. J., XVI. 231, 287. 10 Will. III. c. 53 in Long Cal.]

1236. March 11. Lloyd v. Tym and another.—Petition and Appeal of Elizabeth Lloyd, widow. Petitioner, having inherited from her father William Beavan certain lands in the parishes of Gorway [Garway] and St. Maynards, co. Hereford, and in Skenfrith, co. Monmouth, charged with mortgages of upwards of 160*l.*, and having married Chandois Lloyd, Esq., was prevailed with by her husband to mortgage the property for a further sum of 630*l.* On his urging her in 1686 to raise still more money on the estate, she consented, on condition the prior mortgages should be discharged, which he and an acquaintance of his, one Robert Tym, a scrivener in Chancery Lane, from whom he had borrowed money, promised her should be done, and her husband signed a note to that effect, on her consenting to take up 1,000*l.*, to pay off the 800*l.* mortgages, and the rest to go to her husband's occasions. Application was then made for the 1,000*l.* to one James Cardrow, Esq., who, as Tym affirmed, would lend the money. Thereupon a Bill was brought in Chancery, for discovery of incumbrances, and Petitioner and her husband surrendered the copyhold estate to Cardrow before the money was actually lent, on his agreement to pay the money after the surrender should pass. Cardrow, having got the surrender, by the contrivance of Tym, refused to pay, and executed a declaration purporting that the surrender was in trust for Tym and his heirs, and that the 1,000*l.* belonged to Tym. The latter also framed a lease, whereby Petitioner was to join with her husband in letting the premises to Tym for 99 years, with an endorsement acknowledging the 1,000*l.* to be then paid. Tym brought this lease to a tavern, where Petitioner was sent for, in order, as she understood, to receive the 800*l.* On her refusing to sign the lease until she got the money, Tym assured her it was a mere form, and relying on his word, and not knowing that Cardrow had declared the trust for him, she was surprised into signing it. Her husband dying soon after, Tym, by combination with Cardrow, brought an ejectment in Cardrow's name and recovered possession. After Tym's death, Martha, his widow and administratrix, insisted on the surrender and declaration of trust, whereupon Petitioner brought a Bill in Chancery, and Martha brought a Cross-bill. The Master of the Rolls, on hearing both Causes in May 1694, decreed that Petitioner should pay Martha, with interest, so much of the 1,000*l.* and 254*l.* mentioned in the accounts as Robert Tym or others by his order had actually paid to Petitioner's husband, the said sum to be charged on the copyhold estate, and that thereupon Cardrow was to surrender the copyhold estate to Petitioner, and Martha was to reconvey the same to her. Failing such payment, Cardrow was to surrender to Martha, and Petitioner's daughters, Ann Williams and Elizabeth Temple, were to be absolutely barred all equity of redemption. Petitioner, being prevented from appealing by the Decree being enrolled, brought a Bill of Review, a Demurrer whereto was allowed. Appeals from the Decree, and prays

- 1697-8. that all proceedings may be stayed. *Signed* by Appellant; *Countersigned* Will. Killingwold, Wi. Williams. L. J., XVI. 232. [The
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No. 1236. Appeal was brought in this day, and it not coming in time, a Committee was appointed to consider whether the Petition was fit to be retained in this House. On 17 March the Petition is read. *Mr. Filmer* (for the Petitioner) says she knew not but that it was sufficient to appeal any time the Session; that she is very poor and could not on a sudden get Counsel to look over her papers; that Tym is in possession of the estate and will not suffer by the Cause depending here. *Mr. Blayney* (for Tym) says the Petition is vexatious and brought only to hang us up. The Petition has not been brought within time and we pray it may not be received. On 22 March *Elizabeth Lloyd* says she has done all in her power to bring her Petition since the 16 Dec. that her demurrer was not allowed. She has all along solicited her Solicitor, Counsel, &c., to draw her Appeal, and brought it in as soon as she could get it drawn. *Ordered* to report that, it appearing to their Lordships by the oath of *Eliz. Lloyd*, the petitioner, that she has as much as in her lay endeavoured the bringing in her Appeal within the time limited by the House, for that from the time the Demurrer was allowed she solicited her Counsel and Solicitor to draw the same, and after it was drawn she endeavoured to get it presented to the House, it not being hers but her Solicitor's fault, and for that it can be no prejudice to the Respondent, he being in possession, their Lordships are of opinion that the Petition be retained. Com. Book. At the Hearing on 16 April *Mr. Serjeant Wright* and *Mr. Sloane* appeared for Appellant and *Sir Thomas Powys* and *Sir Bartholomew Shore* for the Respondents. MS. Min. The Appeal was dismissed. L. J., XVI. 265.]

Annexed:—

- (a) 29 March 1698. Answer of Martha Tym, widow, and James Cardrow, Esq. The Decree was just and equitable. Pray that the Appeal may be dismissed with exemplary costs. *Signed* by Respondents; *Countersigned* Ro. Blayney. *Endorsed* as brought in this day.

1237. March 12. *Sir W. Morley v. Jones* (In Error).—Copy Writ of Error, Transcript of Record, and tenor of Judgment affixed thereto. The Plaintiff, *Sir William Morley*, Bart., K.B., late of Halnaker, in Surrey [Sussex], complains of a Judgment of King's Bench, affirming a verdict given by a jury at Croydon assizes in an action brought by the Defendant *Peter Jones* for ejectment from the manor of Frensham Beale, Surrey, which had been let to Jones in 4 Jac. II. by *Henry Bellingham* for 7 years. The manor in 1664 was the property of *Anne Bowyer*, of Chichester, only daughter and heir of *Sir Thomas Bowyer*, Bart., K.B., late of Laythorne, Sussex, and in contemplation of a marriage with *Edward Morley*, of Barnham, Sussex, she agreed in July of that year to settle it on him, on condition that he should settle on her a jointure of 300*l.* a year out of his own estate. The marriage took place in the following August, but the agreement was revoked in 1666, and *Mr. Morley* in that year mortgaged Frensham manor to one *Henry Doble*, citizen and merchant tailor of London, and died in 1667. In 1676 *Sir William Morley*, one of the Trustees under the marriage settlement, having paid off the mortgage, *Doble*, by his directions, conveyed possession to *Mr. Thomas Young*, of Pegham [Pagham], Sussex. *Anne Morley* died in 1679, without issue, and *Henry Bellingham*, on attaining his majority in 1680, claimed the estate as her cousin and next heir, and in 4 Jac. II. let it to the Defendant *Jones*, who was ejected in April of that year by the Plaintiff. [The Writ of Error

was brought in this day. L. J., XVI. 233. At the Hearing on 14 April *Mr. Serjeant Wright* and *Sir Bartholomew Shore* were heard for the Plaintiff and *Mr. Solicitor* and *Mr. Northey* for the Defendant. On the question whether the Judgment shall be reversed the contents were 14, not contents 14 (*semper presumitur pro negante*). It was resolved in the negative. MS. Min. L. J., XVI. 262.]

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No. 1237.

Annexed :—

(a) 17 March. Petition of Sir William Morley for an early day for Hearing. L. J., XVI. 239.

1238. March 14. May's Naturalisation Act.—Certificate of Robert Grisedale, Curate, and Edward Salisbury, Churchwarden, of St. Martins-in-the-Fields, Middlesex, that Charles May, Esq., took the Sacrament on 9 Jan. according to the usage of the Church of England. *Dated* 9 Jan. 1697-8. *Attested* by Humphrey Griffith and Jeremiah Crowther. [Read this day in Committee. Com. Book. The Bill was read 1^a on 1 March; Royal Assent 2 April. L. J., XVI. 222, 256. 10 Will. III. c. 25 in Long. Cal.]

1239. March 15. V. Lisburne's Estate Act.—Amended Draft of an Act for the better settling the several estates of the Right Honorable John, Lord Viscount Lisburne and the Lady Viscountess Lisburne, his wife. One of the two amendments is a verbal one. No amendment in the Commons. [Read 1^a this day; Royal Assent 16 May. L. J., XVI. 235, 287. 10 Will. III. c. 47 in Long Cal.]

Annexed :—

(a) 21 March. Lords' Amendments to the Bill. [Made in Committee and reported this day. Com. Book. L. J., XVI. 241.]

(b) 21 March. Proviso in favour of William Boteler, Esq., of Biddenham, co. Bedford. [Added in Committee and reported this day. Com. Book. L. J., XVI. 241.]

1240. March 15. D. Somerset v. Richardson (Privilege).—Petition of Charles, Duke of Somerset. Petitioner in June 1696 having ordered a mill to be erected on part of his lands in the manor of Aspatria, co. Cumberland, held in uninterrupted possession of Petitioner and his Duchess, time out of mind, has been disturbed by one Sir John Ballentine, of Crookdake-Hall, whose servants Jeffrey Richardson and Thomas Bill have destroyed the mill and filled up the mill-dam. Prays their Lordships' consideration of the breach of Privilege. *Endorsed* as read this day. MS. Min. [William Richardson, sworn this day at the Bar, deposed that he saw Richardson and Bill throwing in earth to stop the water, so that the mill could not go, about Midsummer last was twelvemonth. MS. Min. *Ordered* that Richardson and Bill be attached. L. J., XVI. 235. On 1 April they were reprimanded and discharged, and then being sworn gave evidence concerning Sir John Ballentine and William Ballentine setting them at work. An Order was thereupon *issued* for Sir John and his son to be attached. *Ib.* 254. No further proceedings.]

Annexed :—

(a) 2 April. Certificate of Sir Richard Holford that, in pursuance of an Order of the House of 1 April 1698, Richardson and Bill had made the annexed Affidavits before him. *Dated* this day.

(a¹) Affidavit of Jeffrey Richardson, of Crookdake, co. Cumberland, Yeoman. About Whitsuntide 1696, Sir John Ballentine hired Deponent for 6*d.* a day, meat and drink, to throw in the

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mill-dam and pull down the bridge over the watereourse, which Deponent undertook, and also, by Sir John's order, undermined a new wall then building to shelter the wheel-case of the mill, so that part fell down and the rest had to be taken down and re-built. Last Easter Monday, Deponent, as directed by Sir John, took one of his sheep from John Atkinson, his shepherd, and drowned it, showing it afterwards to two witnesses. At the Midsummer Sessions following at Carlisle, Deponent and others swore to the Grand Jury that the mill was a common nuisance, and gave the death of the sheep as evidence, whereupon a true Bill was found against several of the Duke's labourers employed in building the mill, Sir John paying the expenses of Deponent and the costs of prosecution, and sitting on the Bench when the indictment was found. Sir John being informed that the sheep drowned belonged not to him, but to his shepherd, paid the shepherd 2s. 6d. for it. *Sworn* 2 April 1698 before Rich. Holford.

(a²) Affidavit of Thomas Bill of Crookdake. The mill-dam was upon Crummock Banks, in the parish of Bromfield. Deponent was desired by Sir John to assist in cutting out the head of the mill-dam. He refused at first, but was afterwards prevailed upon by his uncle, John Cape, a former servant of Sir John's, to do the work. *Sworn* as preceding.

1241. March 16. *Sir H. Winchcombe v. King and others.*—Petition and Appeal of Sir Henry Winchcombe, of Bucklebury, in the County of Berks, Baronet. Petitioner, in 1692, as heir to Henry Winchcombe, Esq., his great-grandfather, brought his Bill in Chancery against Susanna King, widow, William Swanton, Edith Guppy, William Guppy, Richard Libb and others for a discovery and for relief against a lease of 99 years of the manor of Piteombe and Cole and the moiety of the manor of Bratton Lynes, co. Somerset, and other lands worth 800*l.* a year, supposed to have been granted by Petitioner's great-grandfather in 5 Car. 1. to William Easton and Richard Libb, in trust to raise 1,000*l.* portion for each of his daughters, Mary, Aune and Francis. The Bill set forth that the trustees, although they had raised much more than would pay the portions, sold in 1650 the absolute remainder of the term, in trust for the other Respondents, to Edward Cheeke and Robert Allam, who knew, when they purchased it, that the former trust was satisfied. Petitioner therefore called on the surviving trustees to account. Defendants pleaded that they were purchasers for a valuable consideration. The Cause was heard on 18 May 1694, when the Court directed an issue to be tried, viz.:—the value of the estate and term at the time of making the said lease, and also of the residue at the time of making the said sale. A Somerset jury found against Petitioner, and the Court of Chancery on 3 May last dismissed the Bill with costs amounting to 225*l.* 11*s.* 1*d.* Petitioner's Bill of Review was dismissed, on demurrer, on 2 March. Appeals against these proceedings. *Signed* by Appellant; *Countersigned* G. Sawyer, Jo. Browne, who certify that Petitioner has just cause to appeal. L. J., XVI. 236. [At the Hearing on 11 May no Counsel appeared for the Appellant, and the Appeal was dismissed with 10*l.* costs. MS. Min. L. J., XVI. 281.]

Annexed.

(a) 7 April 1698. Answer of Hellen King, Susan King, William Swanton, Edith Guppy, Agnes Stride, Edward Cheeke, and Robert Allam. The purchasers, Libb and Easton, had full

power to sell the term, and the same was not subject to any account or redemption. Respondents never had any notice of any trust for Appellant, and never heard of any entry or claim made by him or his ancestors before the Bill was brought. At the Hearing before L. Chancellor Somers in 1694 Appellant's Counsel insisted that the premises, when the lease was granted, were worth 10,000*l.*, but a special jury, after viewing the lands, found the value on the first issue to be 2,000*l.*, and on the second one 569*l.* 15*s.* Respondents have been put to at least 700*l.* charges by the suit. Pray that the Appeal, which is frivolous, may be dismissed with exemplary costs. *Signed* Jo. Keene, Jo. Hall. *Endorsed* as brought in this day.

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(b) 4 May. Petition of Respondents for an early day for hearing, and that Appellant may enter into a Recognizance to answer costs. L. J., XVI. 273.

1242. March 17. Dean and Chapter of Durham and another *v.* Mayor and Burgesses of Newcastle-upon-Tyne.—Petition and Appeal of the Dean and Chapter of Durham of the Cathedral Church of Christ and Blessed Mary the Virgin, and of Samuel Shepheard, of London, Merchant. Respondents in 1694 brought an English Bill into the Exchequer alleging that they and their predecessors, time out of mind, held the town of Newcastle, and the port and haven there, from a place in the sea called Sparhawk to a place in the river called Hedwinstreams, and always had the conservatorship of the river and port, and the sole right of erecting, or suffering to be erected, ballast-shores, quays and wharves; and that the Appellant Shepheard, under a lease from the Dean and Chapter, had attempted to build without their licence a ballast-quay at Jarrow Slake, or Westow Slake. They prayed an Injunction to quiet them in the possession of their franchises &c., and to restrain the erection of the said nuisance, whereupon the Court granted an Injunction on 7 Dec. 1694. Appellants, the Dean and Chapter, in their answer denied the alleged right, other than by some royal grant much subsequent to Appellants' title. They stated that whatever money Respondents had spent in repairing the wharves had been fully reimbursed by the duties levied on goods and merchandize exported or imported in the river, and for ballast laid on their own wharves, all which Respondents received under colour of their charge in conservation; their right at common law to remove real nuisances or obstructions did not extend to hinder any person from erecting a wharf on his own ground; that the alleged Court of Conservation was only a jury of enquiry, and no presentment of nuisance made there by their river jury ought to be conclusive to any owner of lands, both the judge and jury being interested parties; that the Dean and Chapter had a good right to grant the Jarrow Slake, being owners in fee of the manor of Westow and the royalties within it, as fully as any bishops of Durham, under whom they claim; that the quay, so far from being a nuisance, would be a great advantage to both the port and river, and that its erection was opposed by the Corporation for their own benefit, and not for the public good. Witnesses were afterwards examined in the Cause and depositions taken as well in Exchequer as upon a Commission in the country. On the Deputy Remembrancer's report of some variations in the interrogatories, the Court on 13 July 1697 ordered Appellants to state on oath what witnesses examined before Mr. Baron Turton were since dead, and said that they would consider, when hearing the Cause, whether the depositions of such witnesses should be made use of, or not. The depositions of other witnesses which were taken on any of the interrogatories varying

- 1697-8. from those exhibited at the Commission, were suppressed, although the depositions taken in Court were the first in date and the most legitimate. As several of Appellants' most material witnesses previously examined in Court had been drowned, Appellants were deprived of their evidence, and at the Hearing the Court ordered a trial at bar before a Bedfordshire jury upon the issues (1) whether the Appellants might lawfully erect a quay without the consent of the Corporation, and (2) whether the quay in question would damage the river or the navigation. The jury who tried these issues were persons of an inland county and strangers to navigation, and never viewed the place. The evidence of right being mixed up with that of damage, and a verdict obtained by one Blackett against Crooke on the point raised in the first issue being wrongly admitted as evidence, a verdict passed on both issues against Appellants, whereupon the Court decreed a perpetual Injunction, and after refusing to grant a new trial, made a final Decree to the same effect. Pray that this Decree may be set aside and Respondents ordered to answer. *Signed* by Appellants; *Countersigned* Jo. Hawles, Wi. Williams L. J., XVI. 239. [At the Hearing on 7 May *Mr. Serjeant Wright* and *Sir Thomas Powys* were heard for the Appellants and *Mr. Attorney-General* and *Sir Bartholomew Shore* for Respondents. Appellants' Counsel proposed to read records, which was opposed. The House agreed to the records being read, and directed Counsel to offer what was offered to the Court of Exchequer to induce them to grant another trial, and Counsel on the other side to show why the Court of Chancery ought to give a perpetual Injunction. *Mr. Serjeant Wright* produces the record read, Rich. II., to confirm to the Chapter of Durham to be lawful for ships to apply to their shore and that the town of Newcastle should not impede them. Records [of] 42 Ed. III., 45 Ed. III., 32 H. VI. read. They read an Act Q. Mary to repeal two former Acts. They read an Act relating to the town of Newcastle, 3 H. VIII. *Sir Thomas Powys* heard. *Mr. Attorney-General*, We have had two verdicts, one above twenty years since, and acquiesced in. *Sir Bartholomew Shore* heard. They read the answer to the Bill below and own them to be a Corporation, time out of mind. MS. Min. The Appeal was dismissed. L. J., XVI. 278.]

Annexed :—

- (a) 15 April. Answer of the Mayor and Burgesses of Newcastle-upon-Tyne. The interrogatories in the Exchequer were exhibited two months after those at the Commission, and differed from the latter in material points. The trial at law as ordered at Appellants' importunity. At the trial of Blackett v. Crooke the Dean and several of the Chapter were present, and gave in evidence their books and records in support of Crooke. The verdict was fairly and duly obtained, and the Decree is just and equitable. Pray that the Appeal may be dismissed with costs as vexatious. *Signed* Nicholas Fenwick, Mayor, with Seal of Corporation attached. *Countersigned* Robt. Shaftoe, Sam. Dodd. *Endorsed* as brought in this day.

1243. March 17. Smith's Estate Act.—Amended Draft of an Act for the vesting several lands late belonging to Robert Smith, Esquire, deceased, in trustees, to be sold for the payment of his debts. The Lords' Amendments are to insert the names of the trustees and to specify the debts. No amendments in the Commons. [Read 1^a this day; Royal Assent 16 May. L. J., XVI. 238, 287. 10 Will. III. c. 49 in Long Cal.]

Annexed:—

(a) 29 March. Lords' Amendments to the Bill. [Made in Committee 24 March. Com. Book. Reported this day. L. J., XVI. 249.]

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1244. March 17. Davis' Estate Act.—Amended Draft of an Act for vesting certain customary messuages and lands within the manor of Gillingham, in the county of Dorset (late the Estate of Thomas Davis, Gent., deceased) in trustees, to be sold for payment of debts. The principal amendments by the Lords are to insert the names of the trustees. No amendments in the Commons. [Read 1^a this day; Royal Assent 16 May. L. J., XVI. 239, 287. 10 Will. III. c. 54 in Long Cal.]

Annexed:—

(a) 8 April 1698. Consent of John Bowles and John Gane to the passing of the Bill. *Dated* 4 April 1698. *Attested* by Abraham Jordan. [Read in Committee this day. Com. Book.]

(b) 8 April. Consent of Matthew Bowles and Ann Bowles. *Dated* and *attested* as preceding. [Read in Committee this day. Com. Book.]

(c) 13 April. Lords' Amendments to the Bill. [Made in Committee 8 April and reported this day. L. J., XVI. 261.]

1245. March 17. E. Rochford v. L. Montgomery (Privilege).—Petition of William, Earl of Rochford. Petitioner and his tenants are in possession of the manor, tithes and tenths of Hendon, and divers tenements in the parish of St. Giles'-in-the-Fields, co. Middlesex, and of Pipwell Abbey, and divers lands &c. in Benefield, co. Northampton, also lands in the county of Montgomery. One Ralph Milot, as lessee to William Herbert, Esq. commonly called L. Montgomery, has obtained judgments in ejectment against the tenants in the King's Bench and the Exchequer, and taken possession of all the premises in Middlesex and Northamptonshire, and almost all in Montgomeryshire. The Counsel for the prosecution, Mr. Williams, was duly informed that they were tenants of Petitioner, who at the time was about to attend the King in Flanders. The attorney's agents were Mr. John Browning, Mr. Thomas Owen, Mr. Richard Lloyd, Nicholas Stoddard, Hugh Jones, Edward Williams, Richard Tudor, Robert Jeffreys, Griffith Thomas, Richard Loyd, David Loyd, Thomas Adams, Richard Hughes, John Rogers, John Davies, Silvanus Davies, Richard Jervis and Richard Charnock. Prays their Lordships' consideration of the premises. L. J., XVI. 239. [After a debate this day and 23 March, *ib.* 239, 244, the House on 31 March heard Counsel on the Petition, *Mr. Serjeant Wright* and *Mr. Dodd* being heard for Petitioner, and *Sir Thomas Powys* for L. Montgomery. *Richard Tudor*, sworn:—I was at the Session when the Counsel moved for E. Rochford to be a party. Matth. Price is for E. Rochford. Mr. Reynolds, attorney, was there, and acted as attorney. After debate, the Earl agreed to waive his privilege and withdraw his Petition. MS. Min. L. J., XVI. 252.]

1246. March 21. Bampffield's [Bampfylde's] Estate Act.—Consent of Amias Bampfylde, of Culverhays, co. Somerset, Esq., and Lewis Bampfylde, of Rampisham, co. Dorset, Esq., to the passing of the Bill. *Attested* by Thomas White, Joseph Long, Richard Bellamy, and Samuel Arnold. [Read this day in Committee. Com. Book. The

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1697-8. Bill was brought from the Commons on 4 March, and received the Royal Assent on 2 April. L. J., XVI. 225, 256. 10 Will. III. c. 27 in Long Cal.]

No. 1246.

Annexed :—

- (a) 21 March. Affidavit of Thomas White, of Bicknoller, co. Somerset, hosier, that Amias Bampfylde signed the above consent in his presence. *Sworn* before Tho. Ford 2 Feb. 1697. [Appended to preceding.]
- (b) 21 March. Similar Affidavit of Samuel Arnold, of Poltimore, co. Devon, as to Lewis Bampfylde. *Sworn* as preceding. [Appended to first paper.]

1247. March 22. *E. Northampton v. Wilson and others* (Privilege). —Petition of George, Earl of Northampton. Complains that on or about 4 March, in the time of and contrary to the privilege of Parliament, Joseph Wilson, of Wilby, clerk, George Palmer, Francis Wells, Robert Granborough, William Whitworth, John Pettitt and others, tumultuously fished with nets, though warned by Petitioner's agent, in that part of the river Nene lying within the manor of Earl's Barton and other of Petitioner's royalties in the county of Northampton, the sole fishing whereof has been enjoyed by Petitioner and his ancestors time out of mind. Prays their Lordships' consideration of the matter. L. J., XVI. 242. [Read this day and the persons named ordered to be attached. On 31 March their Petition (Annex (a) below) was read and referred to the Committee for Privileges. The Committee met on 18 April 1698. *Mr. Serjeant Wright* and *Sir Thomas Powys* opened the case for E. Northampton and called *Sir Francis Compton* and other witnesses as to his possession. *Mr. Attorney General* and *Sir Bartholomew Shore* were heard on behalf of the delinquents and called evidence. The Committee reported that the delinquents had been guilty of a breach of privilege. Priv. Book. Their Petition was rejected. L. J., XVI. 266.]

Annexed :—

- (a) 31 March 1698. Petition of Joseph Wilson, clerk, George Palmer, Francis Wells, Robert Granborough, William Whitworth and John Pettitt. Petitioners, who have been taken into custody by order of the House, humbly presume that his Lordship has been misinformed, Whitworth being Lord of the manor of Earl's Barton, and the royalty of fishing there having been long since purchased by his predecessors and peaceably enjoyed. Pray for their discharge and for a speedy Hearing, or, if the Earl pleases, Petitioners will readily consent to a trial at law. [Read this day; rejected on 18 April. L. J., XVI. 252, 266.]
- (b) 4 April. Petition of same. Pray to be admitted to bail, so as to prepare their defence at the Hearing on 18 April. *Endorsed* as read this day, and on April 7 moved, but nothing done on it. MS. Min.
- (c) 19 April. Petition of same. Petitioners pray their Lordships to forgive what they did not conceive was an offence, and to order their discharge. [Read and Ordered [that they be] brought to the Bar to-morrow. MS. Min. No further proceedings.]

1248. March 23. Exchequer Bills.—Papers produced before the Select Committee appointed this day to consider of the practice of Exchequer Bills.

[On 16 March it was moved to take into consideration the matter and practice of Exchequer Bills. MS. Min. L. J., XVI. 236. The House ordered the matter to be considered this day, when a Select Committee was appointed for the purpose. MS. Min. L. J., XVI. 245. The proceedings of this Committee were as follows:—

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25 March. L. Audley in the Chair, *Ordered* that Mr. Taylour, Mr. Powys and Mr. Tilson, Clerks to the Lords Commissioners of the Treasury, and Mr. Da Costa attend on 28 March. Com Book.

28 March. L. Audley in the Chair. *Mr. John Taylour, Mr. Richard Powys and Mr. Christopher Tilson* (sworn at the Bar) are called in, and asked who were the Trustees for Exchequer Bills. *Mr. Taylour* remembers not all. They name Mr. Isles [Eyles], Mr. Abbott, Sir Jos. Herne, Mr. Sedgwick, Sir Henry Furnace [Furnese], Sir Theodore Johnson, Mr. Bateman, Mr. Dodington, Sir William Ashurst and Mr. Heatheote. Mr. Herne is the Secretary. *Mr. John Da Costa* (sworn) being present, is asked at what discount the money was returned into Flanders for the army. He says the sum was 35,000*l.* He was to be paid in Exchequer Bills, and was to have 9 guilders, 10 stivers, for every pound sterling. On 19 March he delivered his Bills. He supposes he bargained for them two or three days before. The payment he had was 4 May, which was six or seven weeks after. They withdraw. *Ordered* that Mr. Herne, the Secretary, attend at the next meeting.* *The Three Clerks of the Treasury* are called in again, and being asked how many Exchequer Bills were made in January, February and March?—*A.* We know not by memory. We can tell by our book. *Q.* At what time were the Bills for the 200,000*l.* delivered out?—*A.* The first warrant was 27 April. *Q.* What order had L. Ranelagh to remit money to Flanders, when and how much?—*A.* We can tell by our books, but probably some may be verbal directions, and they will not appear. Mr. Abbott can give account. *Q.* How many Bills have been cancelled by order of the Treasury?—*A.* They are cancelled by a general order. Mr. Clayton, Sir Robert Howard's clerk, can give account. *Q.* What order did the Treasury give Mr. Burton about taking Bills instead of gold and milled money at the Excise?—*A.* They believe he had a verbal instruction from the Treasury. They know not he had any written direction. *Ordered* that Mr. Herne, Mr. Abbott, Mr. Clayton and Mr. Marriott attend on 31 March. *Ordered* that Mr. Taylour, Mr. Powys, and Mr. Tilson, attend on the same day with answers in writing† to the following questions, viz. :—

How many Exchequer Bills were made in January, how many in February, how many in March, how many in April, how many in May, and how many in June?

At what time were the Bills for the 200,000*l.* delivered out?

What order had the L. Ranelagh to remit money to Flanders, when and how much?

How many Bills have been cancelled by the Lords Commissioners of the Treasury?

What order did the said Lords Commissioners give Mr. Burton about taking Bills at the Excise Office instead of gold and milled money? Com. Book.

On 31 March, L. Audley in the Chair, *Mr. Taylour* delivers in answers in writing to the questions given him at the last meeting, which are read.† He believes that it was upon a verbal representation

* The MS. Min. add, "Here enter what was taken in a loose paper."

† See Annex (a) below.

- 1697-8. of the Commissioners of the Excise to the Lords of the Treasury that
 — Exchequer Bills were taken. *Ordered* that Mr. Parry, Mr. Danvers,
 No. 1248. Mr. Everet [Everard], Sir Jo. Foch and Mr. Strong, Commissioners
 for the Excise, attend on 4 April. *Ordered* that the Clerks of the
 Treasury bring an account in writing this day week to whom the
 warrants were given for making out Exchequer Bills in April, May and
 June, and for what uses. *Mr. Taylour*, asked how many contracts were
 made, with whom they were made, and if he can shew the printed
 contracts, particularly the first contract, says he knows not whether
 three were printed; two he has seen printed. *Ordered* that he bring all
 the original contracts. He withdraws. *Mr. Lionel Herne*, sworn,
 being called in, is asked (*sic*). [*Ordered* that he bring in the book of
 subscriptions.]* He says the book of the two first subscriptions is in
 the House of Commons. The third, that is not complete, is in his
 possession. *Ordered* that he bring the two first books of the receipts
 and issues that have been upon the contracts. He says the three first
 contracts are printed; the fourth is not so, but it is expressly the same,
 word for word, with the third. Asked how Mr. Burton paid his
 subscription of 40,000*l*. He says he meddles not with money. *Mr.*
Edwards is the cashier. He supposes it was paid in money; otherwise
 it would not have answered the occasion. *Ordered* that *Mr. Samuel*
Edwards attend on 4 April. *Mr. William Clayton*, sworn, being called
 in, is asked when the first Exchequer Bills were made, and to whom
 the first Bills were delivered. He thinks they were made 27 April to
 the Army for 200,000*l*. Asked how much money came in on the
 Capitation Act, and how much on the Tonnage Act. He cannot
 answer without perusing his books. *Ordered* that he give account
 thereof in writing on 4 April, and how many Exchequer Bills are
 cancelled. *Mr. Mordern Abbott*, being called in, is asked when the
 L. Ranelagh received the first Exchequer Bills, and for how much.
 He says about 27 April; it was for 332,648*l*. *Ordered* that he give
 account of what other Exchequer Bills at any time the L. Ranelagh
 received; what orders the L. Ranelagh had to dispose of the
 Bills. Asked when did the L. Ranelagh pay Da Costa's Bills.
 He thinks it was about 3 May that he made the payment.
 Q. How many Bills were remitted to Flanders, when and by whom,
 and for what sum? — A. 5,500*l*. was remitted in March; the
 second remittance was in May. He says he will give account of all
 remittances till the last of June, by whom, and upon what terms,
 and also of all bills for Quarters. *Ordered* that the same be done
 against 4 April. Com. Book.—On 4 April, L. Audley in the Chair,
Mr. Clayton delivers in an account in writing pursuant to the Order of
 31 March, which is read. He withdraws. *The Commissioners of*
Excise are called in. They are asked whether they gave any particular
 order to Mr. Burton to change the gold and silver into Exchequer
 Bills. They say they gave no order; Mr. Burton was our Cashier.
 We gave him no order. It was his part to do what the law directs.
 We were not ignorant that he received Exchequer Bills for Bills of
 Exchange that were payable in milled money or guineas. He gave us
 great security. He brought us every week tallies from the Exchequer,
 which discharged us. We took no exceptions at his doing it. We
 several times refused to give him directions. We told him we thought
 it not our concern. In the beginning he would have had our direc-
 tions, but we would give him none. Q. What value were the Bills of

* This Order is struck through.

Exchange?—*A.* We have heard about 140,000*l.* *Sir Jo. Foch* : When we observed he took Bills so, we wrote to all our Collectors that they should take no Bills but payable at six days' sight. Before that, they were payable at 20 or 30 days' sight; and now we are forced to take Bills at 20, 30, or 40 days' sight. The Lords of the Treasury afterwards, viz., in October, gave direction that we should no longer receive Exchequer Bills for Bills of Exchange. They withdraw. *Mr. Abbott* delivers in an account in writing of remittances by the *L. Ranelagh*, which was read, and a book. Asked, what would have been the difference if the merchants had been paid in money and not in Exchequer Bills? Answers, he thinks in the beginning it was about 12*l.* per cent. disadvantage to the King. The two last remittances in the account delivered in were about 3 or 4 per cent. loss to the King. *Q.* Are you one of the Trustees for Exchequer Bills?—*A.* I am so. *Q.* Had you ever discourse with Burton about endorsing Exchequer Bills, and what was it?—*A.* I never had any private discourse with him. When we heard he was faulty, the Trustees examined him. Your Lordships may see our books. Both he and Knight denied the fact a long time. [*Q.* Did Mr. Burton tell you the Bills he endorsed were for his own benefit, or for any other persons, and who were those persons?]* He refers to their books. He withdraws. *Mr. Herne* delivers in the first and second contracts, signed by the Subscribers. He delivers in six books which concern the two contracts, as also the printed contracts and printed lists of the Subscribers to the first and second contracts. *Q.* Did Burton ever tell you what were his inducements to endorse the Exchequer Bills as he did?—*A.* I had a hand in proving the matter of fact on Burton. After that I never discoursed with him. He never confessed anything but what was proved on him. He would not discover the Clerk that endorsed the Bills. *Q.* Did Burton ever own that he had allowed the premium of 10*l.* per cent. to persons whose money he had not received?—*A.* I believe he managed several persons' subscriptions, but as to their paying the money I cannot answer. *Q.* Did Burton ever tell you the Bills were endorsed for himself, or for others, and who were those others?—*A.* I never heard him say he falsely endorsed Bills to other men's advantage. He never owned anything before the Trustees but what was forced from him. I have a Narrative of all that concerns Knight and Burton. *Q.* Did you offer any Paper to the Trustees to prevent any such misbehaviour?—*A.* All the Proposals were entered in the Minute Book. *Ordered* that he bring the Narrative and the Minute Book and such other papers as he has in his hands relating to Knight and Burton and Marriott. *Ordered* that Mr. Noell, Mr. Edwards, Mr. Abbott, and Mr. Herne attend on 6 April. Com. Book.—On 6 April, *L. Audley* in the Chair, *Mr. Herne*, Secretary to the Trustees for Exchequer Bills, delivers in the Minute Book and the Narrative. He says the Minute Book is in constant use when the Trustees meet, and that they meet to-morrow morning, whereupon it was returned him, with directions to attend with it to-morrow. He withdraws. *Mr. Samuel Edwards* (sworn) being called in, is asked whether he has not books that show who are the Subscribers, and what they have subscribed. He says he has, and it will appear by them what Mr. Burton subscribed for himself, and what for others. *Mr. Richard Taylour* is cashier for the payments, and Witness is so for the receipts. *Ordered* that Mr. Edwards, Cashier to the Trustees, attend to-morrow with the books of receipts and payments of each Subscriber for Exchequer Bills. He withdraws. *Mr. Edward Noell*,

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* This question is struck through.

1697-8. Secretary to the Commissioners of Excise, being called in and asked what discourse he had with Burton about taking Exchequer Bills upon Bills of Exchange?—*A.* There had been discourse at the Treasury about it, and I meeting Mr. Burton at Whitehall about 6 May, I asked him what Mr. Attorney and Mr. Solicitor's opinion was about Exchequer Bills. He said: "They are of your mind." My mind was that they were to be taken upon Bills of Exchange by the Act and Proclamation. 4 May was the day we were at the Treasury Chamber. On 6 May I had the discourse with Burton. 4 May was the first day that Exchequer Bills were brought to the Excise Office, and some of our officers had taken them, of their own accord, for Bills of Exchange. The cashier had done it. The Commissioners of Excise were angry with him for doing it. I know not that the Commissioners of Excise had any orders from the Treasury for it. On the same day at night they acquainted the Treasury with it. *Q.* Did you never know of any written or verbal direction given from the Treasury to them?—*A.* I know of none. I believe Mr. Burton did it without any particular order. Mr. Burton came in [as] cashier on 7 May and he took them.

Ordered that the Commissioners of Excise, viz., Mr. Parry, Mr. Danvers, Mr. Everard, Sir Jo. Foch and Mr. Strong, attend to-morrow to be sworn.

Mr. Abbott being called in; Asked what discourse, private or public, he had at any time had with Burton about endorsing Exchequer Bills?—*A.* I never had any discourse with him, but as he was a Trustee and that amongst the other Trustees.

We were at first twelve Trustees; are now ten, Knight and Burton being displaced. Mr. Isles [Eyles], Sir Theodore Johnson, Sir Harry Furnace [Furnese], Mr. Bateman, Mr. Dodington [Dorrington], Mr. Heatheote, Sir Jos. Herne and himself are the Trustees; Sir W. Ashurst never acted. *Q.* Was Mr. John Powell by at any time when you discoursed with him?—*A.* Neither Powell nor anybody else was by, other than the Trustees. *Ordered* that Mr. John Powell attend to-morrow to be sworn. On 7 April a messenger from Mr. Herne brings in the Minute Book belonging to the Trustees for Exchequer Bills. *Ordered* that Mr. Francis Eyles and Mr. Dorrington, Treasurer of the Navy, attend to-morrow to be sworn. *Mr. Sam: Edwards* delivers in the book of receipts directed yesterday. *Q.* Are the receipts and payments in the names of the persons themselves?—*A.* Sometimes the Subscribers.

Mr. Taylour and the other clerks of the Treasury deliver in an account in writing pursuant to the Order of 31 March. He says the original contracts are in the House of Commons.

Ordered that the Commissioners of Excise and Mr. Eyles and Mr. Dorrington attend on Monday.

On 11 April *Mr. Francis Eyles* was examined. *Q.* Had not you and some other of the Trustees some discourse with Mr. Burton upon the finding out the false endorsements?—*A.* Mr. Burton was one of the Trustees, and he assisted when the first discovery was made of Marriott's and Knight's false endorsements. *Q.* Did not Burton say he was a loser by subscriptions?—*A.* I have heard him say so in common discourse. I remember not whom he named that he had subscribed for. *Q.* Have you heard him say he had allowed the 10 per cent. to some that had not paid in their money?—*A.* I never heard him say so. *Q.* Did he not tell you to whom he had allowed 10 per cent?—*A.* I have heard him say he was a loser by the subscription. I have heard him say to the Lords of the Treasury that, if it would mitigate the

offence he was guilty of, he had lost 10,000*l.* out of his pocket. He believes the first discovery was in September. Burton sat with us, he believes, two months after the discovery of Marriott and Knight. We proved but 700*l.* upon him and 1,000*l.* he confessed. 1697-8.
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Mr. George Dorrington is asked whether he and the other Trustees had not discourse with Mr. Burton upon the finding out the false endorsements.—*A.* When that was in agitation we discoursed the matter together at the Board, but I never discoursed it with him alone.

Q. Did not Mr. Burton say he was a loser by subscriptions?—*A.* He once said so. He affirmed at the office “I have lost by the whole thing considerably.” He produced a list by discounting Exchequer Bills how he had lost by them. Asked, whether when Burton was found faulty you had not an examination of him?—*A.* We had, and it is in our Minute Book before your Lordships. *Q.* Had you not a fraud put on you in some tallies of the Poll Tax or other tax? Did you tell the Lords of the Treasury you had any such fraud put upon you, by whom was it done, and what was their answer?—*A.* There was a thing of Poll Tax Orders taken up by Mr. Burton and passed in his account which he had not paid me. Upon demand of them he paid them me. I speaking of this, he brought it on before the Treasury and would have laid it on me. We were heard there, but there was no determination. I think the hearing was in October. I think I found the Orders wanting in August, and he paid the money when I demanded it. Being asked what distance of time there was, he said 12 months. The Orders were to about 600*l.* value. I lodged my Orders with the Tellers a twelve months before to take the money gradually as the money came in. The question before the Treasury was whether his practice or my remissness was justifiable, but it was not determined.

Ordered that Mr. Edwards and Mr. Taylour, his assistant, attend at the next meeting and bring the first book of the payments of the first subscriptions and receipts,* and that the said Taylour bring the list he showed to Powell of the Bills supposed to be false endorsed and to whom issued, and that Herne attend with the letter he received from Powell, and that Powell attend, as also Miller, and that Miller and Taylour attend on Wednesday to be sworn.

Sir Jo. Foch is asked whether the Commissioners of Excise did not attend the Commissioners of the Treasury with a representation about 4 May upon the occasion of Exchequer Bills being tendered instead of Bills of Exchange. [Answers.]—We were not appointed to wait on the Treasury on that account, but B. [Burton] having told us that Exchequer Bills were tendered instead of gold and silver, we acquainted the Treasury with it, and they said they would consult the Attorney and Solicitor, and Knight and Burton were to attend them. We never had directions from the Treasury herein, but a day or two after, Noell or Burton told me he was to take Exchequer Bills. We would give Burton no directions. We had good security from him. We understood by Burton or Mr. Noell, to the best of my memory, that the King's Counsel were of opinion Exchequer Bills should be taken. After debate at the Board (where we differed in opinion)† we thought it did not concern us to give directions. We laid it before the Treasury about 4 May. We had directions in October. *Q.* Do not

* (In margin. Query, that he has only given in the book of receipts and not of payments.)

† (In margin. Mem: This was on the day we went to the Treasury.)

1697-8. the Commissioners of the Treasury send their orders in writing?—*A.* Sometimes they do, sometimes they do not. Mr. Noell and I were of opinion, and, I think, Mr. Clarke, that Exchequer Bills were a lawful tender. Others were of another opinion (*viz.*, Parry and Strong, he thinks) but we came to no vote, nor to argue it as the business of the Board, because we resolved to acquaint the Treasury with it, and Mr. Clarke, I think, mentioned it to them. Being asked whether the day the Commissioners of Excise went to the Treasury they made any presentment in writing, he says he does not remember; but they seldom go but they have several presentments; he can tell if he may consult their books.

Mr. Francis Parry is asked whether the Commissioners of Excise did not attend the Commissioners of the Treasury upon 4 May with a representation upon occasion of Exchequer Bills being tendered instead of Bills of Exchange for gold and silver. He says on 1 May he went into the country and returned not till 10 May and stayed but four days in town and went into the country till 5 June. Says there was something said at the Board in Mr. Duncombe's time about the nature of Exchequer Bills but there was no result. I have heard the Commissioners say the Treasury had given no orders in it. *Q.* Did the Board take it to be of importance to have directions?—*A.* I did so, I thought the law obliged us to take Exchequer Bills. When I came home I heard Noell say it was the opinion of the Attorney and Solicitor that Exchequer Bills ought to be taken. *Q.* Do you receive answers in writing generally to the presentments you make in writing?—*A.* We do so. *Q.* What was the reason this matter was not presented in writing?—*A.* I know not how we could make a presentment in writing. *Q.* There being a difference in opinion among you, why did you not represent it?—*A.* Our Treasurer never receives positive orders from us what money to receive, but we expect he bring us a discharge from the Exchequer for what he receives. I think Mr. Danvers and Mr. Meadows were of opinion Exchequer Bills were not to be taken. He thinks if Exchequer Bills had not been a good payment, they must have answered for the tallies.

Mr. Wm. Strong, being asked the same question Sir Jo. Foch and Mr. Parry had been asked, says: I believe I was there. *Q.* Did you represent that matter to the Treasury?—*A.* There were, two or three days before, 200*l.* or 300*l.* taken in Exchequer Bills, as we heard, and we did not approve of it at the Board, and we acquainted the Treasury with it. I think we directed the cashier to take no more, that is, not to take Bills and deliver money in the country for them. This was in Mr. Duncombe's time. I think we are chargeable if we take not what we ought to take. *Q.* What care took you to secure yourselves?—*A.* I believe after this we received no more Bills. This was on Tuesday. On Friday Duncombe surrendered to Burton. A day or two after, Burton acquainted us he would take Exchequer Bills instead of money. We gave him no direction. We thought he knew the law and his office. We thought we had good security to give us discharges every week. We discoursed with Noell: we had his judgment. We thought he understood this matter. He cannot say that they went particularly to the Treasury about this matter; but to the best of his memory the Treasury told them they would speak with Mr. Attorney and Mr. Solicitor about it. After this Mr. Noell told us Mr. Burton said the Attorney and Solicitor were of opinion Exchequer Bills might be taken. He says at first he was of opinion Exchequer Bills were not to be taken, but he was answered the Act [of] Parliament made them silver and gold.

Mr. John Danvers is asked the same question Sir Jo. Foch, Mr. Parry and Mr. Strong had been asked. He says he did not attend the Treasury at that time. About 18 April he was sent into Derbyshire, and came not to the Board till 6 May.

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He says on several occasions they discoursed at the Board concerning the taking them [Exchequer Bills]. On the day after he came to the Board, viz. on 7 May, and Mr. Burton had given security and told them that he would send out the Bill men, he says Mr. Burton told them that he had been at the Treasury, and the opinion of the Attorney and Solicitor was that they [Exchequer Bills] might be taken in payment of Bills of Exchange and that he was resolved to take them. Thereupon I bid him take notice that it was no direction of this Board nor we would give him no direction about it. Q. If Burton had failed, would not the Commissioners have been answerable?—A. Yes, but we had 100,000*l.* security from him, and we were to have a weekly account of him, so that if he had failed there could not have been more than 20,000*l.* before we should have sued his security. Q. Did not the Board apprehend this to be a loss to the King in taking these Bills?—A. He cannot answer this, but his own opinion was that it was an immediate loss to the King. If it had been left to him he should not have taken them, therefore he would never give directions.

Mr. Tho. Everard, being asked the same question Sir Jo. Foch and the other Commissioners of Excise had been asked, says that about 20 April he was sent into the country by the Board and returned not till 10 May. He knows not what directions they had before 10 May, nor knows not of any they have had since.

Mr. John Powell, asked what he knows in relation to Exchequer Bills, says that he having been a subscriber to Exchequer Bills and finding that Glover who was also a subscriber had not paid in his subscription, and meeting with him and telling him of it, he said Knight had undertaken it. That looking on his Bills he found two Bills in August—one endorsed “J. Ford” the other “Bland,” and finding them both writ with one hand, he shewed them Mr. Edwards, who thought they were of the Bills that were false endorsed; whereupon he went to the Treasury, but was not called in, but advised to come again such a day, when the Trustees would be there. Then he went to the Trustees with the Bills and they were thankful for them; then he found seven others endorsed “J. Gardner” and went again to the Treasury, and sent in a note to Mr. Lowndes to acquaint him with his being there, but the Trustees not coming that day, he was not called in. He had these Bills from Miller, who belongs to the Bank. He had these of him for specie Bills, because they bore better interest. He sent a letter of this matter to Mr. Herne, but the letter is not to be found. Mr. Taylour of the Trustees’ office showed him the book and found the numbers of these Bills were in the book against Sir S. Fox’s name. He says Mr. Taylour showed him two Bills in a list on a sheet of paper of Bills suspected to be falsely endorsed, and who they were issued to. He says upon his salvation what he said in the House of Commons is true. Q. What discourse had you with Mr. Herne, Mr. Abbott &c. at any time about management of Exchequer Bills?—A. I have spoken with them all. They said there were great men concerned and none but the Parliament could search into it. They named no man. He says Mr. Dorrington told him the Exchequer Bills were all a grand piece of roguery.

Mr. Powell and Mr. Miller *ordered* to attend, and Mr. Edwards and Mr. Taylour to bring the first book of receipts and payments of the first subscriptions. Mr. Taylour to bring the list of the Exchequer Bills

- 1697-8. supposed to be falsely endorsed which he showed to Mr. Powell. Mr. Herne to bring the letter he received from Powell.
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 No. 1248. Pinned to the page which contains Powell's evidence is the following paper:—

Whereas I, John Powell, having seen a paper in the hands of one Mr. Saunders, the Duke of Bolton's gentleman, which he said was a copy of my examination taken by the Committee of Lords in relation to the evil practice with Exchequer Bills, wherein it was said to this effect, that the nine Bills which I discovered, supposed irregularly endorsed, I carried to the Treasury and the Trustees in August 1697: Now this is to certify that it is a misunderstanding in the clerk that wrote down the examination; for I said to this effect,—that two of the said Bills, one of one hundred and the other of sixty pounds, one of them was endorsed: "Paid for Customs the 30th day of August 1697, J. Bland." The other was endorsed: "Paid for Customs, the 30th day of August 1697, Dan. Ford." Both endorsements supposed to be wrote with one and the same hand; and seven more Bills, endorsed: "Paid for Customs, the 30th day of August 1697, J. Gardner," for one hundred pounds each. That I received these nine Bills from Mr. Miller but the 15th day of September '97, and the latter end of September or about October I carried them to the Treasury and the Trustees. Therefore it was impossible I should say I carried them before the time I received them. But I saying these Bills were endorsed the 30th day of August 1697, and after I discovered them I carried them to the Treasury and the Trustees, it was, it seems, misunderstood by the Clerk as if I carried them in August 1697 to the Treasury and Trustees; which I declare to be a mistake by the clerk (if it be so in the Lords' Book). Witness my hand this 16th May 1698. *Signed* John Powell. *Endorsed: Mem.*—That this 31 May 1698 Mr. Powell brought this paper to the Parliament Office, and desired it might be pinned to the notes taken of what he said before the Lords Committees on the 11th day of April last.

On 14 April *Mr. Taylour* delivers in two books relating to the first subscriptions, which he says are all that are in his custody. *Mr. Edwards* says he has no other books relating to the first subscription but what are before their Lordships. *Mr. Herne* is asked for the letter Mr. Powell gave him. He says Mr. Powell sent a letter to the Trustees relating to the false endorsements of Exchequer Bills. He reads a paper purporting [to be] an account of his having delivered the letter to Mr. Taylour pursuant to an order of the Trustees. Asked, what loss it was to the King, taking Exchequer Bills in all payments to the Crown?—*A.* The loss was what the discount was. If the Government had refused the Bills the people would not have taken them. The tallies upon the Land Tax were then sold at 30 per cent. *Q.* Then you conceive the passing those Bills was an advantage to the Crown?—*A.* I took it to be a great advantage. *Mr. Taylour* is asked whether he has not a list of Bills supposed to be false endorsed. Delivers in a list of Bills fictitiously endorsed, which is a copy of what he delivered in to the House of Commons. Since that, he has seen some few others which he has not entered into this list, but they are sent to Mr. Clayton. The Trustees have had all this matter laid before them. *Q.* Have not you a letter from Powell?—*A.* I have heard of the letter. I cannot say whether I had it, but if I had it, I believe I returned it; I cannot be positive; but if I returned it, it was to Mr. Herne. I believe there was nothing in it; if there had [been] I should have given them account of it. *Q.* Whose officer are you?—*A.* I belong to the Trustees. I am in the same

office with Mr. Herne; so is Mr. Edwards. Mr. Edwards gives account every night what he receives, and I of what orders I issue. *Mr. Edwards*, asked whether all the subscriptions have actually been paid in money.—*A.* I take a Bank note to be money; I have received the subscriptions in money, bank notes, and Exchequer Specie Bills. He is directed to bring his book at the next meeting, to show how much has been received in money and how much otherwise. He delivers in a book of Exchequer Specie Bills. *Mr. Miller.* *Q.* What know you of Exchequer Bills falsely endorsed?—*A.* In September I was receiving money in the Exchequer, and, Mr. Powell asking me for Bills for about 800*l.* I gave him some out of a bundle promiseously, some of which I believe are falsely endorsed, and the Bills I have seen in Mr. Powell's hands are, I believe, those I gave him. I received them in Mr. Marriott's office. *Ordered* that the several persons who attended this day, as likewise Mr. Glover, attend again on Saturday.

On 16 April *Mr. John Glover* is examined. *Q.* Did you tell Mr. Powell that Mr. Knight had undertaken for your subscription?—*A.* I told him Mr. Knight had persuaded Mr. Culliford and me to subscribe 1,000*l.* apiece and promised to pay in the money for us, and accordingly paid in Culliford's; but not paying mine, as I found afterwards, I paid it in myself. *Q.* How know you that Knight paid in Culliford's money?—*A.* Mr. Culliford told it me; I know it no otherwise. I paid in my own by a friend. Culliford paid no money himself nor had any advantage. I believe Knight had it. *Q.* What is the advantage of paying in 1,000*l.*?—*A.* The allowance that is by Act of Parliament. I know not exactly what it is, whether 8 or 10 per cent. I know of no other advantage. My money was paid in by Mr. Smith. *Q.* Know you whether Edwards ever entered any money as received which was not received?—*A.* I know not Mr. Edwards.

Mr. Jo. Powell says that Mr. Glover told him in June that Knight had undertaken to pay in the money. The notes taken of what Glover said this day and Miller said the last day were read to him. *Q.* Know you that Edwards ever entered money received which was not received?—*A.* I know nothing like it. He is shown the list given in by Mr. Taylour the other day. He is asked whether he thinks this may be a copy of the list Taylour shewed him. He remembers no name but what is there. He thinks it is just. *Com. Book.* No further proceedings. The Committee apparently never reported to the House.]

The Papers are as follows:—

(a) 31 March 1698. Answers of the Clerks of the Treasury to the Questions given them as follows:—

An Account of how many Exchequer Bills were directed by Warrants of the Lords Commissioners of his Majesty's Treasury to be made in January, February, March, April, May, and June, viz.:—

In January, February, and March 1696-7, there were no Exchequer Bills directed to be made, but,

	£	s.	d.
In April 1697, Warrants were signed for			
making out Exchequer Bills for	432,648	0	0
In May for	619,290	8	2 $\frac{3}{4}$
And in June for	353,994	9	10

1,405,932 18 0 $\frac{3}{4}$

The Bills for the 200,000*l.* (for discharge of quarters) were directed to be delivered out from the Exchequer to the Earl of Ranelagh on 27 April 1697.

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As to what orders were given to the Earl of Ranelagh to remit money to Flanders, when and how much? We answer, that the Earl of Ranelagh or his deputy did use to be present at the Treasury Board when agreements for remittances were made, and took notice of them at the same time, but we do not find any written orders given to his Lordship to remit money to Flanders.

The Bills which have been cancelled to 28 March, according to a certificate from the Auditor of the receipt of his Majesty's Exchequer, amount to 804,477*l*.

And we do not find any order given by the Lords of the Treasury to Mr. Burton about taking Bills at the Excise Office instead of gold or milled money.

Signed J. Taylour.
R. Powys.
Chris. Tilson.

Endorsed as dated this day.

(b) 4 April 1698. Account to the Lords' Committee appointed to examine the practice of Exchequer Bills of how much money came into the Exchequer on the Capitation Act, and how much money on the Tonnage Act, to 31 March 1698, and how many Exchequer Bills have been cancelled to the same time, viz. :—

	£	s.	d.
On the Capitation Act - - -	407,902	13	3½
On the Tonnage Act - - -	146,294	6	2½
Exchequer Bills cancelled - - -	822,212	0	0

Signed Wm. Clayton. *Endorsed* as dated this day.

(c) 4 April 1698. Account to the Committee of how much money came into the Exchequer on the Capitation Act, and how much on the Tonnage Act, and how much on the 12*d*. Aid to 31 March 1698, and how many Exchequer Bills have been cancelled upon the said Funds to the same time, viz. :—

Paid—	£	s.	d.
On the Capitation Act - - -	407,902	13	3½
On the Tonnage Act - - -	146,294	6	2½
On the 12 <i>d</i> . Aid - - -	284,207	13	0
Total - - -	838,404	12	6

Cancelled—	£	s.	d.
On the Capitation Act - - -	400,445	0	0
On the Tonnage Act - - -	142,985	0	0
On the 12 <i>d</i> . Aid - - -	278,782	0	0
Total - - -	822,212	0	0

For Interest upon the several Funds aforesaid 16,192 12 6

Signed Wm. Clayton. *Endorsed* as dated this day.

(d.) 4 April 1698. Abstract of all the Bills of Exchange which were sent by the Earl of Ranelagh into Flanders for the payment of the Army there, and for which the merchants that supplied the said Bills received their payment in Exchequer Bills from the first issuing of the said

Exchequer Bills, being about 29 April 1697, to the last day of June 1697-8. following, viz. :—

101 Bills of Exchange drawn by Mr. Da Costa, Sir Joseph Herne, Mr. Medina and others, 19 March 1696, for 522,500, florins, for which they were paid about 3 May following, at the rate of 9 guilders 10 stivers to the pound sterling, in Exchequer Bills the sum of	£	No. 1248.
	55,000	
181 Bills of Exchange drawn 24 and 27 April 1697, by Sir Jos. Herne, Sir John and Henry Johnson, Peter Floyer, Gilbert Heathcote, Samuel Shephard, Sir Theodore Jansen, James Bateman, Sir Henry Furnese and Sir John and Francis Eyles, for 960,000 florins, for which they paid about 5 May following, at the rate of 9 guilders 12 stivers to the pound sterling, in Exchequer Bills, the sum of	100,000	
60 Bills of Exchange drawn 7 May 1697, by Sir Henry Furnese, Sir John and Francis Eyles, Richard Marsh, Edward Haistwell, Sir Theodore Jansen, Gilbert Heathcote, Sir John and Henry Johnson, Samuel Shephard, Peter Floyer, Sir Jos. Herne, Sol. Medina and James Bateman, for 480,000 florins, for which they were paid, about 18 May, at the rate of 9 guilders 12 stivers to the pound sterling, in Exchequer Bills, the sum of	50,000	
31 Bills of Exchange drawn 27 May 1697, by Joas Mendes Da Costa, Barth. Philibert, John Lambert, Alvarez Da Costa and Arthur Shallett, for 104,000 florins, for which they were paid about 28 May, at the rate of 10 guilders 8 stivers to the pound sterling, in Exchequer Bills, the sum of	10,000	
28 Bills of Exchange drawn 4 June 1696, by Bartholomew Philibert, Messrs. Seignoret, Baudouin and Santiny, Marc Huguetan and John Lambert, for 104,000 florins, for which they were paid about 8 June, at the rate of 10 guilders 8 stivers to the pound sterling, in Exchequer Bills, the sum of	10,000	
Total	225,000	

Examined 4 April 1698.

Endorsed as read this day.

Signed MORD. ABBOTT.

(e) 4 April 1698. Abstract of all the Exchequer Bills received by the Earl of Ranelagh, Paymaster-General of his Majesty's Forces, at the Receipt of the Exchequer, pursuant to warrants from the Lords Commissioners of his Majesty's Treasury, from the first issuing of the said Bills to 14 December 1697, viz. :—

Dates of Warrants.		£	s.	d.
29 April 1697	Received by Warrant dated the 27th of April, being the first Bills directed to be issued to the said Earl	332,648	0	0
	Which sum the Lords of the Treasury directed to be applied in manner following, viz. :—			
	Towards payment of such sums of money as were due to any persons whatsoever for quartering of soldiers between the 1st of January 1694 and the 1st of January 1696	200,000	0	0
	To clear the quarters and subsistence in England to the said 1st of January 1696	77,648	0	0
	For subsistence of the forces in Flanders	55,000	0	0
		332,648	0	0

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Dates of Warrants.		£	s.	d.
	The sums due for quarters and to clear the arrear of subsistence due to the troops in England, to the 1st of January 1696, were issued by the Earl of Ranelagh, pursuant to the said directions, as soon as the accounts of the several regiments could be adjusted, and the demands of the country ascertained, and above 50,000 <i>l.</i> thereof was paid about the 10th of May, and 200,000 <i>l.</i> before the end of that month.			
	The said 55,000 <i>l.</i> for subsistence in Flanders was paid about the 3rd of May to Mr. Da Costa and other merchants, for bills of Exchange which they had supplied the 19th of March preceding.			
4 May 1697	Received by Warrant dated the 3rd instant 100,000 <i>l.</i> and by another Warrant of the same day 38,777 <i>l.</i> , making together - Which sums the Lords directed to be applied in manner following, viz. :-	138,777	0	0
		£	s.	d.
	Towards subsistence of his Majesty's Forces in Flanders, and which was paid about the 5th day of May to several merchants for bills of Exchange supplied by them the 24th and 27th of April preceding	100,000	0	0
	For subsistence of the Officers that came from Flanders, and the charge of raising recruits upon account of Flanders subsistence	38,777	0	0
		138,777	0	0
4 May 1697	Received by Warrant of this day, and directed to be issued to Mr. Patrick Lamb, for the use of the Hospitals in Flanders	4,840	0	0
12 May 1697	Received by Warrant of the 6th of May 1,000 <i>l.</i> ; by like Warrant of the 7th of May 500 <i>l.</i> ; and by like Warrant 3,000 <i>l.</i> ; making together - Which sums were directed to be applied as follows, viz. :-	4,500	0	0
		£	s.	d.
	For subsistence in Flanders to several regiments	1,500	0	0
	To Col. Gibson, on account of the arrears of pay due to his regiment ordered to Newfoundland	2,000	0	0
	To him more, on account of contingencies for that expedition	250	0	0
	To the Commissioners of Transports, to enable them to send recruits to Flanders	750	0	0
		4,500	0	0
13 May 1697	Received by Warrant, dated the 11th instant, - Which sum was directed to be issued in manner following, viz. :-	35,647	0	0
		£	s.	d.
	To Mr. Francis Eyles and Sir Theodore Jansen, on account of the subsistence in Flanders	6,000	0	0
	To Mr. James Bateman, in part payment of Mr. Hill's bills of Exchange, payable to him, and drawn on the Earl of Ranelagh, for money furnished for subsistence in Flanders	6,000	0	0
	Towards payment of Mr. Hill's bills in the hands of Mr. Eyles	10,000	0	0
	To discharge Mr. Hill's bills, to Officers, on account of the subsistence in Flanders	2,910	0	0
	In part of 2,800 <i>l.</i> in two bills drawn the 25th of November 1696 by John Robinson, Esq., his Majesty's Agent at Stockholm, on Wm. Lowndes, Esq., and payable to Mr. Wm. Cooper	500	0	0
	For four weeks' subsistence, for eight battalions, from the 1st inst. to enable them to march and embark for Flanders, at 1,601 <i>l.</i> 10 <i>s.</i> 7 <i>d.</i> per week	6,406	0	0
	For three months' half-pay for the Officers of the said battalions, on account of their arrears	3,831	0	0
		35,647	0	0

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Dates of Warrants.		£	s.	d.
14 May 1697	Received by Warrant dated the 12th instant on account of the subsistence in Flanders, which was paid about the 18th of May to several merchants, in satisfaction of bills of Exchange supplied by them the 7th instant	50,000	0	0
22 May 1697	Received by Warrant dated the 14th instant 500 <i>l.</i> ; by like Warrant dated the 19th instant 4,000 <i>l.</i> ; and by Warrant of the same date 6,375 <i>l.</i> ; in all	10,875	0	0
	Which sums were directed to be issued in manner following, viz. :—			
	To several regiments, on account of their subsistence in Flanders	500	0	0
	To answer credits given by Sir Henry Ashurst to Col. Gibson, upon New England, for the service of the Expedition to Newfoundland	4,000	0	0
	To eight Companies of Col. Colt's Regiment quartered at Sheerness, Tilbury, and Landguard, for a present supply, on account of their arrear of subsistence due since the first of January 1696	800	0	0
	To several Engineers going to Flanders, on account of their arrears	783	0	0
	To Col. Leigh's Dragoons, to pay carriages on their march	80	0	0
	To several poor widows of his Majesty's Royal bounty	680	0	0
	To Mr. Isaac Pereira, in satisfaction of bills of Exchange, drawn by Mr. Hill, for subsistence in Flanders	1,500	0	0
	To the Commissioners for victualling the Navy, for provisions furnished Col. Gibson for 512 soldiers in their passage to Newfoundland for three months	2,332	0	0
		10,875	0	0
2 June 1697	Received by Warrant dated the 25th of May 33,600 <i>l.</i> , and by Warrant of 28th May 270 <i>l.</i> ; in all	33,870	0	0
	Which sums were directed to be issued in manner following, viz. :—			
	To Antonio Alvarez Machado and Isaac Pereira, the contractors for bread and bread waggon to the Army in Flanders, for their advance upon their said contracts for the then campaign	33,600	0	0
	Towards the march of some troops to encamp on Hounslow Heath, on account of subsistence, &c.	270	0	0
		33,870	0	0
12 June 1697	Received by Warrant dated the 1st inst. 25,000 <i>l.</i> ; the 3rd inst. 100 <i>l.</i> ; and the 4th inst. 10,000 <i>l.</i> ; in all	35,100	0	0
	Which sums were directed to be issued in manner following, viz. :—			
	To Mr. Clifford, in part of bills of Exchange drawn by Mr. Hill on account of the subsistence in Flanders	20,000	0	0
	To the Danish Forces, on account of their arrear of subsistence	5,000	0	0
	To several Officers, on account of their arrears	100	0	0
	To several Merchants, in satisfaction of bills of Exchange supplied by them for the subsistence of the Forces in Flanders	10,000	0	0
		35,100	0	0

1697-8.

No. 1248.

Dates of Warrants.		£ s. d.
22 June 1697	Received by Warrant dated the 11th inst. 20 <i>l</i> .; and by warrant, dated the 16th instant, 2,745 <i>l</i> .; in all - Which sums were directed to be issued in manner following, viz. :- To Capt. Jon. De Witt, as of his Majesty's bounty - £ s. d. 20 0 0 For a week's subsistence to seven regiments ordered to encamp - 1,435 0 0 For the like, to a detachment ordered to attend the Princess at Tunbridge - 75 0 0 To the Lord Denbigh's Dragoons, on account of subsistence - 40 0 0 For a week's subsistence to three regiments ordered to embark for Flanders - 615 0 0 To the Regiments of Northcote and Farrington, on account of arrears of pay, to provide tents - 400 0 0 To defray the charge of 200 loads of straw, for the encampment - 180 0 0 2,765 0 0	2,765 0 0
25 June 1697	Received by Warrant dated the 2nd inst. 1,000 <i>l</i> .; and by Warrant of the 9th inst., 2,203 <i>l</i> .; in all - Which sums were directed to be applied as follows, viz. :- To William Blathwayt, Esqr., on a contingent warrant, for providing horses, carriages, and other necessaries for himself and his Office, attending his Majesty in the Low Countries - £ s. d. 1,000 0 0 For a week's subsistence to seven battalions marching to the encampment - 1,434 0 0 For the Regiments of Northcote and Farrington, on account of their arrears, to complete the sum necessary to provide tents - 400 0 0 To the Regiments of Bellasis, Brudenell, and Coote, on account of subsistence, to defray the charge of carriages on their march towards the camp - 150 0 0 For a month's subsistence to four companies of Sir John Jacob's regiment garrisoned at Berwick - 224 0 0 3,203 0 0	3,203 0 0
5 July 1697	Received by Warrant dated the 2nd instant, and paid to Mr. Schuylenburgh, &c., for Mr. Hill's bills for subsistence in Flanders - - - -	16,160 0 0
16 July 1697	Received by Warrant dated the 23rd June 10,575 <i>l</i> .; and by Warrant dated the 29th June 11,315 <i>l</i> .; in all - Which sums were directed to be issued in manner following, viz. :- On account of subsistence of two companies of Col. Colt's Regiment, quartered at Gospright [Gosport] - £ s. d. 100 0 0 On account of the subsistence in Flanders, to be applied to the satisfaction of Mr. Hill's bills in the hands of Mr. Medina - 10,000 0 0 For subsistence, to the Forces encamped on Blackheath - 475 0 0 To discharge two of Mr. Hill's bills for the subsistence in Flanders, payable to Mr. Walter Kent - 1,319 0 0 Towards answering Mr. Hill's bills payable to Monsieur Schuylenburgh - 10,000 0 0 *£21,890 0 0	21,890 0 0
3 Aug. 1697	Received by Warrant dated the 24th June, on account of subsistence for the Dutch Guards - - - -	50 0 0
6 Aug. 1697	Received by Warrant dated the 30th of July - - - - Which sum was directed to be applied as follows, viz. :- For subsistence in Flanders, paid several Merchants for bills of Exchange - £ s. d. 50,000 0 0 To Col. Skelton, on a contingent warrant - 100 0 0 £50,100 0 0	50,100 0 0

* The total of the figures in the Column is £21,894 0 0

1697-8.

No. 1248.

Dates of Warrants.		£	s.	d.
7 Aug. 1697	Received by Warrant dated the 1st inst. and directed to be issued for 14 days' subsistence to all the Forces in England, to commence the said 1st of August	13,000	0	0
13 Aug. 1697	Received by Warrant dated the 30th of June, and applied to the following uses:— To discharge a contingent warrant payable to Brigadier Trelawny's Regiment - For subsistence, to a detachment of the Dutch Guards attending the Princess at Tunbridge	168	0	0
		£	s.	d.
		115	0	0
		53	0	0
		168	0	0
13 Aug. 1697	Received	80,000	0	0
17 "	"	2,300	0	0
19 "	"	33,000	0	0
20 "	"	12,000	0	0
21 "	"	6,000	0	0
23 "	"	81,000	0	0
27 "	"	31,500	0	0
1 Sept. 1697	"	10,500	0	0
3 "	"	10,500	0	0
4 "	"	10,000	0	0
7 "	"	9,295	0	0
10 "	"	22,500	0	0
17 "	"	22,460	0	0
25 "	"	13,000	0	0
30 "	"	27,305	0	0
5 Oct. 1697	"	22,695	0	0
7 "	"	18,000	0	0
22 "	"	13,000	0	0
2 Nov. 1697	"	3,900	0	0
6 "	"	12,780	0	10
11 "	"	2,355	0	0
18 "	"	720	0	0
18 "	"	13,420	0	0
26 "	"	410	0	0
28 "	"	4,375	0	0
14 Dec. 1697	"	1,480	0	0
	Which several sums, amounting to four hundred and fourteen thousand four hundred and ninety-five pounds, were received, pursuant to the following Warrants, amounting to the same sum, viz. :—			
	By Warrant, dated the—	£	s.	d.
	4th of Aug. 1697	2,300	0	0
	The same day	10,000	0	0
	5th August 1697	70	0	0
	6th "	41,835	0	0
	11th "	18,300	0	0
	12th "	50,000	0	0
	13th "	57,590	0	0
	13th "	50,000	0	0
	17th "	5,000	0	0
	31st "	2,265	0	0
	1st September 1697	20,500	0	0
	8th "	23,195	0	0
	22nd "	13,000	0	0
	28th "	50,000	0	0
	5th October 1697	18,000	0	0
	20th "	13,000	0	0
	28th "	3,900	0	0
	5th November 1697	12,280	0	0
	10th "	2,355	0	0
	15th "	720	0	0
	18th "	13,920	0	0
	19th "	410	0	0
	25th "	4,375	0	0
	9th December 1697	1,480	0	0
	And by the said Warrants the said several sums, amounting to 414,495 <i>l.</i> were directed to be issued in manner following, viz. :—			
	To William Cooper, Esq., to complete the satisfaction of 2,800 <i>l.</i> in two bills drawn on the 25th Nov. 1696 by John Robinson, Esq., his Majesty's Agent at Stockholm, on Wm. Lowndes, Esq., payable to said Cooper	2,300	0	0
	To Messrs. Machado and Pereira, on account of subsistence of the Army in Flanders, for bread supplied by them	10,000	0	0
	To several Officers from Flanders, on account of subsistence, &c.	70	0	0

1697-8.

No. 1248.

Dates of
Warrants.

	£	s.	d.	£	s.	d.
To several Merchants, for remittances to Flanders at the rate of 10 florins 8 stivers to the pound sterling - - -	33,835	0	0			
For Exchequer fees and other services - -	8,000	0	0			
For two weeks' subsistence to the Forces in England, to the 28th of August - -	13,000	0	0			
To pay several bills of Exchange, drawn by Mr. Hill, on account of the subsistence in Flanders - - -	2,800	0	0			
On account of the arrear of subsistence in England, between the 1st of January 1696 and the 1st of Aug. following, to reimburse several who had advanced money to the soldiers in Bristol and Southwark - - -	2,500	0	0			
To several Merchants, for remittances to Flanders at the rate of 10 guilders 10 stivers to the pound sterling - -	50,000	0	0			
For subsistence in Flanders, to answer several of Mr. Hill's bills payable to Mr. Medina - - -	9,950	0	0			
For ditto, to answer the like bills payable to Mr. Bateman - - -	10,000	0	0			
For ditto, to answer the like bills payable to Sir Henry Furnace and Sir Theodore Jansen - - -	10,000	0	0			
To Mr. Stratford, for subsidies for the Duke of Holstein - - -	9,375	0	0			
On account of the subsistence in Flanders, to answer a bill of Mr. Hill's payable to Mr. Abraham Houblon - - -	8,442	2	11			
To Mr. Clarke, on account of contingencies in attending the General Officers - -	327	11	9			
On account of subsistence in Flanders, to complete 33,633 <i>l.</i> 5 <i>s.</i> 8 <i>d.</i> upon Mr. Hill's bills payable to Mr. Schuylenburgh - -	9,332	5	4			
To Jasper English, on several contingent warrants - - -	163	0	0			
To the Trustees appointed for circulating Exchequer bills, to be applied by them to satisfy the several subscribers to the contract for exchanging the said bills the money they are to pay for the first fourth part of their respective subscriptions, and to be refunded, either in money or bills, by the said Trustees, when they shall have received all the payments from the subscribers - -	50,000	0	0			
To pay several bills of Exchange drawn by the Count de Frize for the service of the troops on the Rhine - - -	5,000	0	0			
To the Trustees appointed for circulating Exchequer bills, to be applied by them to pay the interest due on 107,862 <i>l.</i> 10 <i>s.</i> deposited for the first fourth part of the first subscription from the 27th of April 1697 to the 6th of August following - -	2,265	0	0			
For two weeks' subsistence to the Forces in England, ending the 11th of September 1697 - - -	13,000	0	0			
To answer several bills of Exchange drawn by Mr. Hill for subsistence of the Forces in Flanders - - -	2,500	0	0			
To answer several bills of Exchange drawn by Mr. Vander Meir, &c., for payment of the troops on the Rhine - - -	5,000	0	0			
For 14 days' subsistence for the Forces in England, to the 25th September 1697 - -	13,000	0	0			
To pay Mr. Hill's bills to Mr. Bateman, on account of the subsistence in Flanders - - -	5,000	0	0			
To pay Mr. Hill's bills to Sir Henry Furnace and Sir Theodore Jansen - -	5,000	0	0			
For subsistence to four companies of Sir John Jacob's Regiment at Berwick - -	195	0	0			
For 14 days' subsistence for the Forces in England, to the 9th of October 1697 - -	13,000	0	0			
For subsistence in Flanders, paid several Merchants for bills of Exchange sent to Flanders at 10 guilders 10 stivers to the pound sterling - - -	50,000	0	0			
For 14 days' subsistence to the Forces in England, to the 23rd of October 1697 - - -	13,000	0	0			
For subsistence in Flanders, to discharge a bill of Mr. Hill's payable to Mr. Huguetan - - -	5,000	0	0			

Dates of Warrants.		£ s. d.	£ s. d.	1697-8. No. 1248.
	For 14 days' subsistence for the Forces in England, to the 6th of November 1697, inclusive	13,000 0 0		
	For 2 weeks' subsistence to several regiments landed from Flanders	3,900 0 0		
	For 14 days' subsistence to the Forces in England, from the 7th to the 20th of November, both days inclusive	12,280 0 0		
	For 14 days' subsistence to the Regiments of Lumly, Windham, Wood and Royal Regiment of Dragoons, to commence from the time of their landing in England	2,355 0 0		
	For 14 days' subsistence for the Earl of Portland's Regiment, to commence from the time of their landing	720 0 0		
	For the subsistence of the Forces in England, exclusive of those that came from Flanders, for 14 days, from the 21st of November 1697 to the 4th of December following; and for 14 days' subsistence for the Regiments of Selwyn, Churchill, Trelawny and the Fusiliers, to commence from the time of their landing	13,920 0 0		
	For 14 days' subsistence for Colonel Seymour's Regiment, to commence from the time of their landing	410 0 0		
	For subsistence for several regiments landed from Flanders, to subsist them from the time of their landing to the same time the regiments in England are subsisted, being the 4th of December 1697	4,375 0 0		
	For subsistence for the Forces in England, on account	1,480 0 0		
		<u>414,495 0 0</u>		
	The total sum received by the Earl of Ranelagh out of 2,700,000 <i>l.</i> Exchequer Bills which were authorised to be issued by Act of Parliament		1,168,093 0 0	

Examined the 4th April 1688.

Mord. Abbott.

Endorsed : Mr. Abbott's Account, &c., pursuant to the Orders of 31 March last.

(*f.*) 7 April 1698. Account to whom Warrants were given for making out Exchequer Bills in April, May, and June last, and for what uses they were issued.

Dates of Warrants.		£ s. d.	£ s. d.
27 April 1697	After our hearty commendations, by virtue of an Act of Parliament entitled An Act for granting an Aid to his Majesty as well by a Land Tax as by several subsidies and other duties payable for one year, and of another Act entitled An Act for making good the deficiency of several Funds therein mentioned and for enlarging the Capital Stock of the Bank of England and for raising the public Credit, These are to pray and require you forthwith to issue to Our very good Lord Richard, Earl of Ranelagh, Paymaster-General of his Majesty's Forces, upon an unsatisfied order in his name, so many of the Bills authorised to be issued by virtue of the said Acts as do amount to three hundred thirty-two thousand, six hundred, forty-eight pounds, by way of imprest and upon account, for the pay of his Majesty's Forces, and the contingent charges thereunto		

1697-8.

No. 1248.

Dates of
Warrants.

		£	s.	d.	£	s.	d.
	belonging: The same being intended to be applied by him as followeth, viz. :-						
		£	s.	d.			
	Towards payment of such sums of money as are due to any persons whatsoever, for quartering of soldiers between the 1st of January 1694 and 1st of January 1696 - - -	200,000	0	0			
	To clear the quarters and subsistence in England to the said 1st January 1696 - - -	77,648	0	0			
	For subsistence of the Forces in England - - -	55,000	0	0			
					332,648	0	0
	And you are to take care that the said Earl be duly charged with the said sum in his Imprest Roll, or Certificate, to be examined by the Clerk of the Pells, and for so doing this shall be your warrant. Whitehall, Treasury Chambers, the 27th of April 1697. S. Fox, Jon. Smith, Thos. Littleton.						
	To our very loving friend Sir Robert Howard Knt., Auditor of the Receipt of his Majesty's Exchequer.						
27 April 1697	A like Warrant for issuing in the said Bills to the Treasurer of his Majesty's Navy, to be employed for the service of the Victualling	100,000	0	0			
3 May 1697	A like Warrant for issuing in the said Bills to the Earl of Ranelagh, for subsistence of the Forces in Flanders - - -	100,000	0	0			432,648 0 0
3 May 1697	A like Warrant for issuing in the said Bills to the said Earl for stoppages and recruits for 3 months, to the 23rd of February last - -	38,777	9	8			
4 May 1697	A like Warrant for issuing in the said Bills more to the said Earl to be paid over to Patrick Lamb for the uses following, viz. :-						
		£	s.	d.			
	For the returns of money for the use of the Hospitals in Flanders in the year 1695 - - -	486	0	0			
	For so much due to him on account of the Hospitals at Tilbury in the year 1696 - - -	654	0	0			
	For the advance on his Contract for the year 1697 - - -	2,000	0	0			
	For the advance on the establishment for the Hospitals in Flanders for the year 1697 - - -	1,700	0	0			
					4,840	0	0
4 May 1697	A like Warrant for issuing in the said Bills to Mr. Fox and Lord Coningsby, for the Commissioners of the Transports, on account of the service of that Office - - -	8,000	0	0			
4 May 1697	A like Warrant for issuing in the said Bills to Charles Bertie, Esq., Treasurer and Paymaster of the Office of the Ordnance, viz. :-						
		£	s.	d.			
	For Land Service - - -	20,000	0	0			
	For Sea Service - - -	50,000	0	0			
					70,000	0	0
4 May 1697	A like Warrant for issuing in the said Bills to the Treasurer of his Majesty's Navy, for the course of the Navy - - -	50,000	0	0			
4 May 1697	A like Warrant for issuing in the said Bills to the said Treasurer of the Navy, to be paid over to the Commissioners for Sick and Wounded Seamen - - -	10,000	0	0			

1697-8.

No. 1248.

Dates of Warrants.		£	s.	d.	£	s.	d.
6 May 1697	A like Warrant for issuing in the said Bills to the Earl of Ranelagh, for the Forces in general -	1,000	0	0			
7 May 1697	A like Warrant for issuing in the said Bills to the Treasurer of the Navy, for the Service of the Victualling, to be applied only to the fitting out the Grand Fleet, and paying necessary money to the pursers -	50,000	0	0			
7 May 1697	A like Warrant for issuing in the said Bills to the Earl of Ranelagh, to be applied for subsistence in Flanders, to wit, to the 2nd Regiment of Foot Guards called the Coldstream Regiment, under command of Lord Cutts -	500	0	0			
7 May 1697	A like Warrant for issuing in the said Bills to the said Earl for the uses following, that is to say:—						
	For Col. Gibson, on account of the arrears of pay to his Regiment lately gone to Newfoundland -	2,000	0	0			
	To ditto, more on account of contingencies -	250	0	0			
	To the Commissioners of Transports to enable them to send the recruits which were lately ordered to Flanders -	750	0	0			
		3,000	0	0			
10 May 1697	A like Warrant for issuing in the said Bills to the Treasurer of the Navy, for the service of the Victualling, to be paid over to Mr. Fox and Lord Coningsby, for victuals furnished in Ireland for the use of the Navy -	1,000	0	0			
11 May 1697	A like Warrant for issuing in the said Bills to the Earl of Ranelagh for the uses following, viz:—						
	To be paid over to Francis Eyles, in satisfaction of the loss or discount at the rate of 15 per cent. on tallies and orders for 30,000 <i>l.</i> charged on the Aid of 3 <i>s.</i> per pound, which tallies are accepted by him for bills of Exchange to Flanders, at 11 guilders to the pound sterling for subsistence there -	4,500	0	0			
	For Sir Theodore Jansen, in satisfaction of like discount for 10,000 <i>l.</i> by him remitted for subsistence there ut supra -	1,500	0	0			
	For James Bateman, in part of payment of Mr. Hill's bills of Exchange payable to him and drawn on the said Earl for money furnished for subsistence in Flanders -	6,000	0	0			
	Towards payment of Mr. Hill's bills in the hands of Mr. Eyles for subsistence there -	10,000	0	0			
	To discharge Mr. Hill's bills to Officers on account of their subsistence in Flanders -	2,910	0	0			
	In part of 2,800 <i>l.</i> in two bills drawn 25th Nov. 1696 by John Robinson, Esq., his Majesty's agent at Stockholm, on Wm. Lowndes, Esq. and payable to Wm. Cowper -	500	0	0			

1697-8.

No. 1248.

Dates of Warrants.		£	s.	d.	£	s.	d.	£	s.	d.
	For a week's subsistence for eight battalions from the 1st of May instant, to enable them to march and embark at 1,601 <i>l.</i> 10 <i>s.</i> 7 <i>d.</i> per week -	6,406	0	0						
	For three months and a half pay for the Officers of the battalion of Scots Guards -	286	0	0						
	And for the other seven battalions at 506 <i>l.</i> 9 <i>s.</i> 0 <i>d.</i> each -	3,545	0	0						
					35,647	0	0			
12 May 1697	A like Warrant for issuing in the said Bills to the Earl of Ranelagh, for subsistence of the Forces in Flanders -				50,000	0	0			
12 May 1697	A like Warrant for issuing in the said Bills to Charles Fox and Lord Coningsby for Commissioners of the Transports, for the charge of transports to Holland -				2,500	0	0			
14 May 1697	A like Warrant for issuing in the said Bills to the Treasurer of the Navy, for the slop-sellers of his Majesty's Navy -				10,000	0	0			
14 May 1697	A like Warrant for issuing in the said Bills to the said Treasurer, for Imprests and bills of Exchange -				30,000	0	0			
14 May 1697	A like Warrant for issuing in the said Bills to the Earl of Ranelagh, for the uses following, viz. :—									
		£	s.	d.						
	For subsistence to the battalion of the 1st Regiment of Guards in Flanders -	400	0	0						
	For subsistence to the Fusiliers in that battalion -	100	0	0						
					500	0	0			
19 May 1697	A like Warrant for issuing in the said Bills to the Earl of Ranelagh, for the uses following, that is to say :—									
		£	s.	d.						
	To answer a credit given by Sir Hen. Ashurst to Col. Gibson at New England, for the service of the Expedition to Newfoundland -	3,000	0	0						
	For pay of Officers to encamp on Blackheath -	1,000	0	0						
					4,000	0	0			
19 May 1697	A like Warrant for issuing in the said Bills to the Treasurer of the Ordnance, for land service, the sum of -				10,000	0	0			
19 May 1697	A like Warrant for issuing in the said Bills to the Earl of Ranelagh, for the uses following, viz. :—									
		£	s.	d.						
	To each of the eight companies of Col. Colt's Regiment, quartered at Sheerness, Tilbury and Landguard Fort, 100 <i>l.</i> -	800	0	0						
	To Col. Leigh's Dragoons, 10 <i>l.</i> a troop, to enable them to pay the carriages upon their march, and to be placed to account of contingents -	80	0	0						
	To five Engineers going to Flanders, to wit, Alex. De Lamartinerie, 228 <i>l.</i> ; Eliazr. Mintiny, 228 <i>l.</i> ; Jean Petit, 145 <i>l.</i> ; Theodore Collier, 91 <i>l.</i> ; Thos. Kerr, 91 <i>l.</i> In all -	783	0	0						
	To pay a contingent warrant, for bounties to widows -	880	0	0						

1697-8.

No. 1248.

Dates of Warrants.		£ s. d.	£ s. d.	£ s. d.
	To pay part of Mr. Hill's bills drawn on said Earl, payable to Isaac Pereira, for subsistence in Flanders - - -	1,500	0	0
	To be paid over to Commissioners for Victualing his Majesty's Navy, for provisions furnished Col. Gibson, for 512 soldiers in their passages to Newfoundland for 3 months - - -	2,335	14	4½
				6,378 14 4½
21 May 1697	A like Warrant for issuing in the said Bills to the Treasurer of the Navy, for the uses following, viz. :—			
	To Wm. Culliford and Anthony Evernden, for sail-cloth furnished the Navy	1,000	0	0
	For a quarter's wages due to the Yards at Michaelmas 1696 - - -	37,335	0	0
	For paying bills of Exchange from outports, for persons that have sent seamen to the Fleet, for their rewards of 20s. a man - - -	396	8	0
	For Captains' disbursements in pressing and procuring seamen for the Fleet - - -	2,234	0	0
	For Imprests to the Clerks of the Cheque and Muster-masters of the Outports, for their paying 20s. a head for all seamen sent out of the country - - -	1,100	0	0
	For bedding for the seamen on board the Fleet - - -	2,943	4	0
				45,008 12 0
25 May 1697	A like Warrant for issuing in the said Bills to the Earl of Ranelagh, to be paid over to Antonio Alvarez Machado and Jacob Pereira, the Contractors for bread waggons for the Army in Flanders, for the advance upon their said contracts for the present campaign - - -			33,600 0 0
26 May 1697	A like Warrant for issuing in the said Bills to the Treasurer of the Navy, for the Victuallers, to be by them applied to the payment of short allowance money to the ships at the Nore under the command of Sir Geo. Rooke - - -			4,263 12 2½
27 May 1697	A like Warrant for issuing in the said Bills more to the Treasurer of the Navy, for the course of the Navy - - -			50,000 0 0
	A like Warrant for issuing in the said Bills to the Earl of Ranelagh for the uses following, viz. :—			
	To march the troops that are to encamp on Hounslow Heath - - -	100	0	0
	For the Clerks to the General Officers, for so much due to them upon a contingent warrant for their service between 18 Feb. 1694-5 and 1st Jan. last - - -	170	0	0
				270 0 0
1 June 1697	A like Warrant for issuing in the said Bills to the Earl of Ranelagh for the uses following, viz. :—			
	In part of Mr. Hill's bills payable to Mr. Clifford, for subsistence in Flanders - - -	20,000	0	0
	In part of the subsistence due to the Danish Forces there - - -	5,000	0	0
				25,000 0 0
				619,290 8 2½

1697-8.

No. 1248.

Dates of Warrants		£ s. d.	£ s. d.
2 June 1697	A like Warrant for issuing in the said Bills to the Treasurer of the Navy for wages to seamen - - -	100,000 0 0	
2 June 1697	A like Warrant for issuing in the said Bills to the Earl of Ranelagh, for satisfying a contingent warrant, for providing horses, carriages and other necessaries for Wm. Blathwaite and his office in attending his Majesty in the Low Countries - -	1,000 0 0	
3 June 1697	A like Warrant for issuing in the said Bills to the Earl of Ranelagh, more for the service of the Forces in general - -	100 0 0	
3 June 1697	A like Warrant for issuing in the said Bills more to the Treasurer of the Navy, for the uses following, viz. :—		
	<div> <div>£ s. d.</div> <div>To Mr. Taylor, on his contract for hemp - - -</div> <div>In part of 3,000<i>l.</i> to be paid Sir Geo. Rooke, Admiral of the Fleet, for the contingent charges thereof -</div> <div>6,000 0 0</div> <div>500 0 0</div> <div>6,500 0 0</div> </div>		
3 June 1697	A like Warrant for issuing in the said Bills to the Earl of Ranelagh, for subsistence of his Majesty's Forces in Flanders - -	10,000 0 0	
3 June 1697	A like Warrant for issuing in the said Bills to the Treasurer of the Navy, for the uses following, viz. :—		
	<div> <div>£ s. d.</div> <div>For the current service of the Victualling - - -</div> <div>For short allowance money - - -</div> <div>5,000 0 0</div> <div>5,000 0 0</div> <div>10,000 0 0</div> </div>		
8 June 1697	A like Warrant, drawn upon his Majesty's Sign Manual, for issuing in the like Bills to the Trustees for circulating Exchequer Bills to satisfy the respective subscribers one year's interest or reward, at the rate of 10 <i>l.</i> per cent. per annum, for the sums by them contracted for - - -	43,435 0 0	
9 June 1697	A like Warrant for issuing in the said Bills to the Treasurer of the Navy for the uses following, viz. :—		
	<div> <div>£ s. d.</div> <div>To Mr. Taylor, on his contract for hemp - - -</div> <div>In further part of 3,000<i>l.</i> to be paid Sir Geo. Rooke, Admiral of the Fleet, for the contingent charges thereof - - -</div> <div>3,000 0 0</div> <div>500 0 0</div> <div>3,500 0 0</div> </div>		
9 June 1697	A like Warrant for issuing in the said Bills to the Earl of Ranelagh, for the uses following, viz. :—		
	<div> <div>£ s. d.</div> <div>For one week's subsistence to the seven battalions marching to their encampment - - -</div> <div>More upon account of the arrears due to Col. Northcote's and Col. Farrington's Regiment - - -</div> <div>More for the Regiments of Sir Henry Bellasis, Col. Brudenell, and Col. Coote, to defray the charge of carriages in their march towards the camp, on account of subsistence - - -</div> <div>More for a month's subsistence for four companies of Sir John Jacob's Regiment at Berwick - - -</div> <div>1,434 0 0</div> <div>400 0 0</div> <div>150 0 0</div> <div>224 0 0</div> <div>2,208 0 0</div> </div>		

Dates of Warrants.		1697-8.	
		£ s. d.	No. 1248.
9 June 1697	A like Warrant for issuing in the said Bills to Mr. Fox and Lord Coningsby for the Commissioners of the Transports -	1,000 0 0	
11 June 1697	A like Warrant for issuing in the said Bills to the Earl of Ranelagh, to be paid over to Capt. John D'Wills, as of his Majesty's bounty -	20 0 0	
12 June 1697	A like Warrant for issuing in the said Bills to the Treasurer of the Navy, for the service of the Victualling -	5,000 0 0	
16 June 1697	A like Warrant for issuing in the said Bills to the said Treasurer of the Navy, for sick and wounded seamen and prisoners at war -	5,000 0 0	
16 June 1697	A like Warrant for issuing in the said Bills, more to the said Treasurer of the Navy for Mr. Taylor on his contract for hemp -	3,000 0 0	
16 June 1697	A like Warrant for issuing in the said Bills to the Earl of Ranelagh, for the uses following, viz. :—		
	£ s. d.		
	For a week's subsistence to seven regiments ordered to encamp -	1,435 0 0	
	The like to the detachment ordered to attend the Princess at Tunbridge -	75 0 0	
	For the Lord Denbigh's Dragoons, on account of subsistence -	40 0 0	
	For a week's subsistence to three regiments now to embark for Flanders -	615 0 0	
	To the Regiments of Northcote and Farrington, upon account of arrears of pay -	400 0 0	
	For contingencies, being to defray the charge of 200 loads of straw for encampment -	180 0 0	
		2,745 0 0	
16 June 1697	A like Warrant for issuing in the said Bills to Mr. Fox and Lord Coningsby for Commissioners [of] Transports, on account of the charge of embarkation to Holland -	1,000 0 0	
18 June 1697	A like Warrant for issuing in the said Bills to the Treasurer of the Navy for the Victuallers, to be applied in manner following, viz. :—		
	£ s. d.		
	For short allowance money due to the ships in the line of battle -	5,000 0 0	
	For the course of the Office -	5,000 0 0	
		10,000 0 0	
18 June 1697	A like Warrant for issuing in the said Bills, more to the Treasurer of the Navy, for the payment of bills in course -	50,000 0 0	
23 June 1697	A like Warrant for issuing in the said Bills, more to the Treasurer of the Navy, for the sick and wounded seamen and prisoners of war, to answer bills of Exchange drawn on the Commissioners for sick and wounded from Jamaica and payable to Gilbert Heathcote, for a credit by him furnished for the service of the seamen on shore there -	788 15 8	
23 June 1697	A like Warrant for issuing in the said Bills, more to the Treasurer of the Navy to be imprested to four persons, who are to act as agents in New England for rendering his Majesty a true account of the condition of that Colony with relation of the produce of ship-timber, plank, deals, rosin, pitch, and other stores proper for the service of the Navy -	1,000 0 0	

1697-8.

No. 1248.

Dates of Warrants.		£ s. d.	£ s. d.
23 June 1697	A like Warrant for issuing in the said Bills to the Earl of Ranelagh, for the uses following, viz.:—		
	<div>£ s. d.</div>		
	For two companies of Col. Colt's Regiment now quartered at Gosport, on account of subsistence -	100 0 0	
	For subsistence in Flanders, to be applied towards satisfaction of Mr. Hill's bills payable to Mr. Medina for the same -	10,000 0 0	
	For subsistence to the forces ordered to encamp on Blackheath -	477 14 2	
		<hr/>	10,577 14 2
22 June 1697	A like Warrant for issuing in the said Bills to Mr. Fox and Lord Coningsby, for the uses following, viz.:—		
	<div>£ s. d.</div>		
	To Richard Aplin, late a Captain in Colonel Hamill's Regiment, as of his Majesty's bounty to him, for his service during the siege of Londonderry -	40 0 0	
	To Joshua Bowes, as of his Majesty's bounty, for his service in Ireland -	20 0 0	
	To Martha Dillon, of his Majesty's bounty -	20 0 0	
		<hr/>	80 0 0
24 June 1697	A like Warrant for issuing in the said Bills to the Earl of Ranelagh, for subsistence to Dutch Guards that attend the Princess at Tunbridge -	53 0 0	
25 June 1697	A like Warrant for issuing in the said Bills to the Treasurer of the Navy for the uses following, viz.:—		
	<div>£ s. d.</div>		
	For bounty money -	5,700 0 0	
	For the Victuallers to pay short allowance money -	6,770 0 0	
	For ditto for the course of their Office -	7,530 0 0	
		<hr/>	20,000 0 0
29 June 1697	A like Warrant for issuing in the said Bills to the Earl of Ranelagh for the uses following, viz.:—		
	<div>£ s. d.</div>		
	To discharge Mr. Hill's bills for subsistence in Flanders -	1,319 0 0	
	Towards answering Mr. Hill's bills payable to Mr. Schuylenburgh -	10,000 0 0	
		<hr/>	11,319 0 0
30 June 1697	A like Warrant for issuing in the said Bills to the Treasurer of the Navy for Mr. Taylor, on his contract for hemp for this year -	5,500 0 0	
30 June 1697	A like Warrant for issuing in the said Bills to the Earl of Ranelagh, for the uses following, viz.:—		
	<div>£ s. d.</div>		
	To defray the charge of marching Trelawny's Regiment -	115 0 0	
	For subsistence to the Dutch Guards that attend the Princess at Tunbridge -	53 0 0	
		<hr/>	168 0 0

Dates of Warrants.		£	s.	d.	£	s.	d.	1697-8. No. 1248.
30 June 1697	A like Warrant for issuing in the said Bills to the Treasurer of the Navy for the uses following, viz. :-							
		£	s.	d.				
	For sick and wounded seamen and prisoners of war - - -	5,000	0	0				
	To the Victuallers for the course of Office - -	10,000	0	0				
	For Imprests - - -	10,000	0	0				
					25,000	0	0	
								353,994 9 10
	Total issued in April - - -	432,648	0	0				
	In May - - -	619,290	8	2½				
	In June - - -	353,994	9	10				
					1,405,932	18	0½	

Dated 7 April 1698.

Signed J. Taylour.
R. Powys.
Chris. Tilson.

Endorsed 7 April 1698. Account to whom Warrants were issued for making out Exchequer Bills, and for what uses.

Delivered in by Mr. Taylour, &c.

(g.) 13 April 1698. Paper endorsed "Mr. Taylour's Account of Bills falsely endorsed," as follows:—

An Account of Bills now in my hands, suspected to be falsely endorsed, issued to Mr. Knight upon the subscriptions of the persons hereafter mentioned.

—	For whom Issued.	Issued.		Fictitiously endorsed.	
		Quantity of Bills.	Sum.	Quantity of Bills.	Sum.
1697. June 8	Sir Stephen Fox - -	10	£ 1,000	8	£ 800
July 12	Ditto - -	16	1,000	2	160
„ 12	Sir Walter Young - -	3	125	1	100
Aug. 2	Sir Stephen Fox - -	40	2,000	10	420
	John Knight, Esq. - -	25	1,000	3	80
	John Smith, Esq. - -	13	500	13	500
	James Chadwick, Esq. -	13	250	13	250
	William Culliford, Esq. -	13	250	13	250
	Mr. Richard Miller - -	10	200	10	200
	James Pavy - -	10	200	10	200
	Philip White - -	5	100	5	100
	Mrs. Elizabeth Carfox -	5	100	5	100

1697-8.

No. 1248.

—	For whom Issued.	Issued.		Fictitiously endorsed.	
		Quantity of Bills.	Sum.	Quantity of Bills.	Sum.
1697. Aug. 14	Sir Stephen Fox . . .	86	£ 3,800	11	£ 680
	James Chadwick, Esq. . .	11	475	10	470
	Richard Pavy, Esq. . .	10	380	10	380
	Richard Miller, Esq. . .	10	380	10	380
„ 16	William Culliford, Esq. . .	7	475	3	115
	John Smith, Esq. . .	11	950	2	50
	Mrs. Carfox . . .	3	190	2	90
	Philip White, Esq. . .	3	190	2	180
„ 31	Sir Stephen Fox . . .	55	2,000	27	1,220
	John Smith, Esq. . .	25	500	24	480
		384	16,065	194	7,205

1249. March 24. Cary's Estate Act.—Amended Draft of an Act for vesting a moiety of certain messuages and lands in Hackney, in the County of Middlesex, in trustees, for the benefit of Susan Cary (widow and relict of Nicholas Cary, Esq., deceased) and others. A drafting amendment was made in each House. [Read 1^a this day; Royal Assent 16 May. L. J., XVI. 246, 287. 10 Will. III. c. 58 in Long Cal.]

Annexed:—

(a) 13 April. Breviate of the Bill, with consent of Susan Cary thereto. *Dated* 7 April 1698. *Attested* Tho. Rowe, Edward Wood. [Read in Committee this day. Com. Book.]

(b) 13 April. Lords' Amendments to the Bill. [Made in Committee and reported this day. Com. Book. L. J., XVI. 261.]

1250. March 24. Bishop of Winchester's (Alverstoke) Act.—Draft of an Act for confirming a Lease, granted by the Lord Bishop of Winchester, of a parcel of waste ground in Alverstoke in the County of Southampton, for the erecting of waterworks there, and for improving the same. The Commons added two clauses, to which the Lords disagreed. After a conference the Commons decided not to insist upon them. C. J., XII. 255, *in extenso*, 328. [Read 1^a this day. Royal Assent 5 July. L. J., XVI. 246, 343. 10 Will. III. c. 86 in Long Cal.]

Annexed:—

(a) 29 March 1698. Consent of inhabitants of Gosport and Fortune [Forton], in the parish of Alverstoke, to the breaking up of the streets and highways by Thomas Crews, shipwright, for the purpose of laying down pipes and conveying fresh water into the town of Gosport, in consideration of 10*l.* paid by Crews towards the building of the chapel there. *Dated* 12 Nov. 1694. *Signed* by John Robins and 82 others. [Read in Committee this day. Com. Book.]

(b) Consent of Henry Player and five other freeholders of Alverstoke to the digging by Crews of a well, building, and laying down

pipes on certain land in Fortune, in consideration of 20s. to be spent on a treat to them at the Ship-on-Wheels. *Dated* 14 Dec. 1694.

1698.

No. 1250.

- (c) Similar consent of John Allen, junior, of Fortune, Gent. *Dated* 22 Dec. 1694. *Attested* Hen. Huish.

1251. March 29. Alveston Manor Act.—Amended Draft of an Act for vesting the Manor of Alveston and other lands therein mentioned in the County of Gloucester in trustees, to be sold for payment of debts, and for other purposes therein mentioned. The amendments are of a formal nature. No amendments in the Commons. [Read 1^a this day; Royal Assent 16 May. L. J., XVI. 249, 287. 10 Will. III. c. 62 in Long Cal.]

- (a) Breviate of the Bill.

- (b) 19 April. Consent of Nicholas Veel to the passing of the Bill. *Dated* 8 April 1698. *Attested* by George Clark and Robert Thurston. [Read in Committee this day. Com. Book.]

- (c) 19 April. Consent of Sir Jonathan Keate. *Dated* 18 April 1698. *Attested* by George Clark and Henry Ball. [Read in Committee this day. Com. Book.]

- (d) 2 May. Lords' Amendments to the Bill. [Made in Committee 19 April and reported this day. Com. Book. L. J., XVI. 270.]

1252. March 31. Whitborne Rectory Act.—Amended Draft of an Act to annex the Rectory of Whitborne, in Herefordshire, to the Bishopric of Hereford. The amendments are to insert the date on which the annexation is to take place, the length of residence there required of the Bishop, and the allowance to the Curate. The Commons amended the Bill by making the annexation last only for the lives of Samuel Birch and his wife, and by increasing the Curate's allowance from 50*l.* to 60*l.* C. J., XII. 248. [Read 1^a this day; Royal Assent 16 May. L. J., XVI. 252, 287. 10 Will. III. c. 46 in Long Cal.]

Annexed :—

- (a) 7 April. Lords' Amendments to the Bill. [Made in Committee and reported this day. Com. Book. L. J., XVI. 258.]

1253. March 31. Colchester (Navigation) Act.—Petition of Giles Sayer. Petitioner is seized of a freehold estate near adjoining the channel from the Heith at Colchester to Wivenhoe, whereon he has built a quay and warehouses, to the great convenience of the poor of the parish as well as to the country people near, which has been experienced for the last nine or ten years. The Bill will destroy Petitioner's inheritance, and injure the inhabitants of the parish of St. Giles and other adjacent neighbours. Prays to be heard by Counsel against the Bill. L. J., XVI. 252. [Read this day. The Bill was brought from the Commons on 28 March. *Ib.* 248. On 13 April Counsel and witnesses were heard for the Petition and for the Bill. MS. Min.. In Committee on 16 April Counsel were again heard for the Petitioner and a Clause offered for his protection. On 18 April a Clause was inserted to preserve any rights which by law he then had. Com. Book. The Commons agreed to the Clause with an amendment, and the Bill received the Royal Assent on 16 May. L. J., XVI. 287. 10 Will. III. c. 43 in Long Cal.]

1698.
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No. 1254.

1254. April 1. Writ of Summons (E. Leicester).—Writ of Summons to Robert, Earl of Leicester. *Dated* 21 March 1697-8. [Sat first in Parliament this day after the death of his father. L. J., XVI. 253.]

1255. April 1. New Forest Act.—Petition of divers inhabitants of the Parish of Eling in the County of Southampton. Petitioners and their predecessors have time out of memory enjoyed the privileges of herbage, pannage, and fuel in the New Forest, belonging of right to their estates held there, and have constantly entered their claims and been allowed so to do and pay quit rents to the Crown for the same. Pray to be heard against the Bill. Signed by George Stanley and 83 others. [The Bill for the increase and preservation of Timber in the New Forest was brought from the Commons on 28 March. L. J., XVI. 248. On 1 April, Counsel were ordered to be heard on the Petition of the inhabitants of Ringwood, presented the same day, and Mr. John Fitch and Mr. Henry Howard were ordered to attend at the Hearing to be examined. *Ib.* 254.—On 13 April the House, on motion, ordered Mr. Pettit, the Keeper of the Records in the Tower, to attend with the Records of Claims of Foresters and Borderers, entered at a Justice in Eyre's seat in the late L. Holland's time. *Ib.* 261.—On 15 April Counsel were heard for the Petitioners and *Mr. Barry* gave evidence. *Proposed* to consider whether parties concerned may be witnesses in this case. Counsel asked whether they have any witnesses that are not parties concerned in point of interest.—On 3 May, Counsel and witnesses being called in, *Sir Thomas Powys* and *Sir Bartholomew Shore* were heard for the Petitioners against the Bill. *Francis Perkins* and *Wm. Cooke* sworn and heard. Other witnesses heard. *Mr. Serjeant Wright* and *Mr. Northey* heard for the Bill. *Philip Ryley* sworn and heard as to what advantage he may have if the Bill pass, and then heard generally. Some witnesses heard against the Bill. Counsel withdrew. *Proposed* to read the Bill a second time. *Proposed* to hear witnesses further against the Bill. Counsel called in again. *Francis Barrow*, — *Bromfield*, and — *Knapton* sworn. Counsel were gone home. Further hearing adjourned. MS. Min. L. J., XVI. 272.—On 6 May Counsel and witnesses called in and heard for and against the Bill. They proposed to examine some witnesses, who were excepted against. Counsel withdrew, and being called in again, they were told they were at liberty to examine witnesses as to any abuses in the Forest, or to contradict anything *Mr. Ryley* said. *Francis Barry*, *Sir Richard Haddock*, *Mr. Dickins*, *Richard Robinson* and others were sworn and heard. *Mr. Ryley* was heard. Counsel withdrew. *Moved* that one *Mr. Fitch* attend as a witness. *Ordered* accordingly. Bill read 2^a and committed to C. W. H., and a Special Committee appointed to consider of what abuses have been committed in the New Forest and what grants of timber have been made there. MS. Min. L. J., XVI. 276.*

In Committee of the Whole House on the 11 May, L. Herbert in the Chair, Title read and preamble postponed. First enacting Clause read. After debate, *Question* proposed: Whether for the preservation of timber in the New Forest, there shall be an inclosure? *Agreed* that the word ("inclosure") shall stand in the Clause. Then the Clause was postponed. The next Clause was read, for making the inclosures. After some time, House resumed and progress reported as in L. J., XVI. 281. *Ordered* that the Special Committee, appointed 6 May, do

* For Report and Proceedings of this Committee, see Annex (j) and notes thereto.

also consider the best way of making the inclosures and fences. MS. Min. L. J., XVI. 282.—On 25 May, the Special Committee having reported certain proposals as to inclosures, the House went again into Committee on the Bill, L. Herbert in the Chair. The Clause for inclosure was read. *Proposed* that the inclosure in the New Forest shall be by way of a bank, ditch, and stockade. The Clause was agreed to. MS. Min. On 26 and 27 May the House was again in Committee and Bill reported. Royal Assent 5 July. L. J., XVI. 299, 300, 343. 9 Will. III. c. 33 Fol. Ed.]

1698.

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No. 1255.

Annexed :—

- (a) 1 April 1698.—Petition of several freeholders and others living in or near the parishes of Ringwood and Harbridge, near the New Forest, in the County of Southampton. Petitioners and their ancestors have time beyond memory claimed, and now of right enjoy common of pasture, turbary and pannage in the New Forest, and pay and perform divers rents, duties and services to the Crown for the same. The inclosures contemplated in the Bill will greatly prejudice not only Petitioners, but also thousands of others living in and near the Forest, who claim and enjoy the same rights, and will tend to destroy the breed of cattle in the Forest, which has always been a great nursery for the breed of all sorts of cattle, the advantage whereof is not only very great to Petitioners, by breeding many thousands of lean cattle yearly, but also to several of the Western Counties, where they are grazed and fatted. Pray to be heard by Counsel against making the inclosures. *Signed* by John Hoby and 146 others.
- (b) 1 April 1698. Petition of several freeholders and others living in or near the parish of Sopley. Identical with (a) above. *Signed* by Tho. Stephens and 68 others.
- (c) 1 April 1698. Petition of several freeholders and others living in or near Lymington. Identical with (a) above. *Signed* by John Mackrell and 137 others.
- (d) 1 April 1698. Petition of several freeholders and others living in or near the parish of Ibseley. Identical with (a) above. *Signed* by George Evans and 58 others.
- (e) 1 April 1698. Petition of several freeholders and others living in or near Holnhurst and other parishes near the New Forest. Identical with (a) above. *Signed* by Edward Shroake and 67 others.
- (f) 1 April 1698. Petition of several freeholders and other inhabitants of the Liberty of Breamore and places adjacent. Identical with (a) above. *Signed* by Tho. Arundell and 113 others.
- (g) 1 April 1698. Petition of several freeholders and others living in or near the town and parish of Fordingbridge. Identical with (a) above. *Signed* by Robert Whitaker and 151 others.
- (h) 1 April 1698. Petition of several freeholders and others living in or near the borough of Christchurch. Identical with (a) above. *Signed* by Henry Compton and 92 others.
- (i) 1 April 1698. Petition of several freeholders and others living in or near the borough of Downton. Identical with (a) above. *Signed* by H. Coles and 98 others. [All the above Petitions *endorsed* as read this day.]

1698.
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No. 1255.

(j) 25 May 1698. Report from the Lords Committees appointed to examine the miscarriages in the New Forest; as follows:—

Die Lunæ 4^o Julii 1698.

By the Lords Committees appointed to consider of what abuses have been committed in the New Forest.

Ordered to Report,

That their Lordships have examined several persons upon oath, touching abuses committed there, and their Lordships tender to the consideration of the House the substance of what hath appeared before their Lordships.

16 May 1698.—*Henry Greenhill*, Commissioner of the Navy, being asked what abuses he has known in the New Forest; says he has been a stranger there till within these ten months; since that time he has observed great abuses in lopping trees in general. Few trees have a limb for the use of the Navy. There is scarce a tree in the Forest of a load that is not lopped. In felling 1,000 trees for the Navy, *William Eddy*, the Purveyor, has given him notice that there are not ten loads according to estimation of knees and standards that will be taken off from them. Upon marking several trees the deponent observed to *Mr. Dickins*, the woodward, that he heard the Duke of Bolton was angry that the keepers cut not broose sufficient for the deer, and that, if the Duke turned out the keepers that cut the broose here, he would do them much wrong, and it was a shame the Forest should be so abused, "brave broose indeed!" At which, *Mr. Dickins* laughed, saying he was glad it pleased him. The deponent further says he has seen stumps remaining of trees cut down for broose that have been from 12 to 16 inches through, containing, he believes, 4 or 5 hogsheds. *Mr. Dickins*, being present, says the trees have not been lately broosed, and that no gentleman's park is better kept as to the quantity of ground, and that he remembers not that any such discourse happened between him and *Mr. Greenhill*. *William Eddy*, sworn, says he was present when the above-mentioned discourse happened between the said *Greenhill* and *Dickens*. That, according to computation, there will not be ten loads of knees and standards, by reason of broosing, in the thousand trees mentioned by *Mr. Greenhill*. Never forest was so abused. A gentleman would not have such a wood so spoiled for 50,000*l*. He has seen three-quarters of a tun in an arm cut for broose. He further says that he was at the setting out the sale of the wood that *Mr. Fitch* bought, and he knows that there was not any tree sold him that was fit for the King's service. Several of the keepers have told him that they who cut most broose were best respected. To this *Mr. Dickins* replied that he never ordered the keepers to cut other broose than the law of the Forest would allow, and that, although the keepers cut the broose, yet the woodward sells it for the King's use. *Edward Prince*, sworn, says in *Mr. Fitch's* sale a tree was sold which he, the deponent, estimated to 24 tun, which he heard afterwards, from a person (whose name he remembers not) that measured it, when it was felled, it was 28 tun. The deponent further says that there were several other trees sold *Mr. Fitch* which were the best trees to the deponent's estimation in the places where they grew; but he did not see the great tree after it was felled.

17 May 1698. *John Fitch*, sworn, being asked what he knows of any abuses committed, of the destruction of timber in the New Forest, says he bought 10,000*l.* worth of wood of the Lords of the Treasury. He had more than 6,000*l.* of it in the New Forest. He sold half of it to Haward for the same money, and wants 1,000*l.* of his money still, and lost his charges. By the remainder he lost above 1,000*l.* He prayed the Lords of the Treasury to make the best of it, to let him have another fund for his money, and he would stay six months for it without interest, and he told their Lordships the Surveyor was too hard and sharp for him, and he could not afford to give the money. Being asked whether he did not say to Col. Dore that Mr. Ryley, the Surveyor, had destroyed much timber in the New Forest, and that he had sold wood for 10*s.* which had been sold again for 50*s.*; he says there is not a tree cut down but may have something in it in root or top fit for shipping; that he lost 1,000*l.* by the bargain of wood he bought in the New Forest (which cost him six thousand and odd pounds) of Mr. Ryley, the Surveyor, in the presence of the woodward and several of the Regarders; and that he was forced to buy good timber of the Lord Montague and others, to put off this timber with. Being asked whether he did not offer the D. Bolton 1,000*l.* and to take leed [lead] of his Grace in lieu of his timber, he says that he knew that the D. Bolton could not do him five shillings' worth of service, therefore he never offered anything to him. He says that he has seen great spoil made in broosing by the keepers, and has cried shame of them. They cut knees of great bigness from eight to twelve inches square for broose. He has seen them in a morning and they have been gone by noon. He says his servants have bought good stuff out of the fuel trees for him to help off with that which he bought of Mr. Ryley, and he has seen the woodward assign the fueller a tree which his, the deponent's, servant has afterwards bought and given 50*s.* or 3*l.* for it. The annexed Paper,* subscribed by Col. Dore, being read to him, and he asked whether it is true, says he believes he might say so, and that it is true he might have had such discourse with him. He says Col. Dore said Mr. Ryley would make a great advantage by sales, and asked me if he would take bribes. The deponent answered Mr. Ryley was a sharp man, but he never asked the deponent anything more than his fees, nor did he ever give him anything.

20 May 1698. *Mr. Richard Robinson*, sworn, being asked what he can say in contradiction to what Mr. Fitch said the other day, he says that when stops were put to Mr. Fitch's bargain Mr. Fitch applied himself to him, to bring him to the Duke of Bolton; and he did bring him to his Grace, and there

1698.

No 1255.

* The following paper is here pinned to the Report:—"That Mr. Fitch called me out before dinner into the garden, unexpectedly, at a gentleman's house in Fleet Street, where we dined of a Sunday. He knows it. That what he said to me there was an accusation against Mr. Ryley, who (he told me) had destroyed a great deal of the best timber in the New Forest, and instanced in a tree of 28 tun of timber, which was cut down for a dotard, and told me, at the same time, that, to his knowledge, good timber had been sold out of those sales for 10*s.* per tun upon the spot, and the same for 50*s.* per tun afterwards. The abovesaid truth I give under my hand, and am ready to make oath of it at any time when thereunto required, and these I aver to be true. Tho. Dore. May 17th 1698."

1698.

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Mr. Fitch told his Grace, in the deponent's presence, that if he would take this bargain off his hands he would take the Duke's lead, and would secure him he should get 1,000*l.* by the bargain without any trouble, or words to that effect. There was, he says, a stop put to Mr. Fitch's grant before this discourse, but he cannot be positive whether any caveat was entered, but, if there was any, it was before this discourse with the Duke. He says that, whereas Mr. Fitch said, the other day, he wanted 1,000*l.* of his bargain of wood, he the deponent has seen an answer of his in Chancery, where he owns he has received 2,000*l.* in tallies or orders, and that Haward had borrowed of Mr. Topham 1,000*l.* more for the remainder of that bargain to pay him. And he further says that Mr. Fitch lately told the deponent that he still wanted 400*l.* or 500*l.*; and, the deponent asking him how that happened, he said he paid it in fees. *John Fitch*, sworn, says Mr. Robinson did bring him to the Duke of Bolton, and he offered his Grace his bargain of wood for lead, and he could have given him a good price for his lead, because he had sold lead to the Officers of the Ordnance, and wanted it to supply them with, and the timber was then all standing, and it proved not so good by 1,000*l.* as he expected it would have done. And, when he offered this to his Grace, he had reason to put the best face he could upon his goods, because he was willing to part with them. There is still 1,000*l.* due on his articles, and he is this day to have a trial for it. He says he never paid Mr. Riley a farthing more than his bare fees, nor more than he paid any other officer, nor did he ever ask him anything. *John Winter*, sworn, says he bought 1,000 loads of timber of Mr. Fitch, the greatest part of it forest timber, the rest of it was timber he bought of the Lord Montague; some part of it was fit for knees for merchants' old shipping, but none of it for the King's ships. He says he gave no more than thirty shillings a load for it, and would not have given more than 15*s.* a load, if he had not with it had the coppice timber (which was bought of the Earl of Montague). Then the Committee ordered they would not examine further into Fitch's sale, but what other abuses have been committed in the New Forest.

26 May 1698. *Mr. Philip Ryley*, sworn, being asked what abuses he has known to have been committed in the destruction of timber in the New Forest, he says the abuses he has observed there are that great assignments of wood have been made without warrant. That assignments of fuel wood have been made so; instead of lop, great trees, excessive in quantity and of other nature than they ought to be. Destruction of broose wood, he has seen limbs cut 12 or 16 inches square; and the King has not, in some instances, had much above a third of the quantity of the broose sold. There have been assignments of timber to keepers for repairs; one tree he has seen so assigned, valued by the workmen at 10*l.*, for repair of a turf house and a well, and the turf-house only repaired. Under pretence of fuel wood, timber is cut, and notwithstanding complaints made thereof those assignments have been renewed, and have been made of whole trees, even of oak, by the woodward.

28 May 1698. *George Furzer*, sworn, being asked what abuses he knows have been committed in the destruction of

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timber in the New Forest, says he has known considerable abuses by the woodward, keepers and colliers, as by assignments of timber instead of fuel. He instances in one tree 127 feet, which in 1695 was assigned for fuel; the woodward's axe was to the root of it, but he knows not to whom it was assigned; it was afterwards stopped by the deponent acquainting Mr. Stigins, the master builder, and carried into the yard at Portsmouth. As also the top of another fuel tree, good timber, in Whitley Ridge Walk, he was informed it was assigned as fuel for Mr. Hussey; it was afterwards approved of by the said Mr. Stigins and carried into the King's Yard, at the deponent's acquainting him therewith. The body was carried away before the top was found, which top being 70 feet good timber was carried into the King's Yard. Assignments being made before Christmas last of fuel by the woodward, the deponent found several beech trees, some 3 or 4 tun, in divers persons' hands, which were good timber. Some of them were whole trees, whereas by the laws of the forest they ought to have been broken up upon the spot. About two years since, in Castle Mallard [Malwood] Walk, the deponent met with the woodward assigning fuel, where he told the said woodward that he had that day made a stop of timber knees assigned for fuel for Minstead. The said timber knees of oak were about 40 or 50 feet, and that several persons, particularly Phineas Rolfe, had wood assigned for fuel, who had no right to any, and though the deponent made affidavit thereof at Lyndhurst Court, yet they have since had new assignments of fuel. There was an order made at that Court that no person against whom affidavit was made of their having sold their fuel should, for the future, have any; notwithstanding which several persons against whom such affidavit has been made have had great quantities assigned them. That several small cottages, particularly John Pinson's three cottages, value 8*l.* or 10*l.* per annum, have had, in the deponent's judgment, assigned him fuel worth 20*l.* in one year. That on 4th April 1696 a tree was ent down in Lady Cross Walk which was good timber, both knees and standards. The deponent stopped it by a general warrant from the Lords of the Treasury, till it should be viewed by the purveyor of the Navy, but notwithstanding that stop it was disposed of before any such view: he believes this tree was better than a load. Near the same tree another very good timber tree with the woodward's axe to it was ent down, but though the deponent stopped it, Brown, to whom it had been sold, carried it away; there were very good knees and standards in it. The deponent some time after stopped three knees that had 43 feet of timber, which was ent in Lady Cross Walk and carried to Heath, where the deponent seized it, being good knees fit for his Majesty's service, and the purveyor viewing it and conceiving it to be so, set the King's axe to it; notwithstanding which, Brown carried them away and sold them to Parker, who used them in a man of war which he built for the King. After which the woodward encouraged Brown to sue the purveyor and the deponent for marking the said timber for the King. The woodward assigned a beech, good timber, to Burgess for fuel, but the deponent stopping it, the woodward said to him, "you have good intelligence, that you are so quick." The woodward afterwards sold it for forty odd shillings; he believes it was between 90 and 100 feet. 18 August 1696.

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The woodward marked a full tree, being very good timber, assigned for Mr. Hussey, as the deponent was informed; it was between 4 and 5 tun. Upon the deponent's stopping it, it was sold afterwards by the woodward. 18 Nov. 1696. A tree was cut down in Denny Walk by Thorne, for the woodward's own use, without any warrant that the deponent knows of. In 1696 the deponent went through the Forest and viewed the broose-wood, and found cut by the several keepers amounting to 673 coal fires, containing by computation above 2,000 loads of wood. In May 1697 the deponent viewed the broose-wood in Irons Hill Walk, which amounted to 40 odd fires, which is about 120 loads by computation; but he was informed by Mr. Oxford, one of the Regarders, that there were but 20 coal fires (which is but 60 load) disposed of for the King. 14 May 1697. In Ashurst Walk, the deponent asking Mr. Oxford what fires were taken up there by the woodward for the King, he told the deponent there were but six, being 18 loads, but the deponent viewing it, he found 14 fires, being 42 loads. 13 Dec. 1697. The deponent found two trees felled in Whitley Ridge Walk, and sold by the woodward without any warrant for so doing that the deponent knows of; they were oaks, good timber, and the men that wrought them informed the deponent they were sold for near 12*l*. 8 Feb. 1697-8. The deponent found two oak trees felled in Denny Walk by the woodward's order worth, in his opinion, 8*l*., for the repair of the pig-pound, and not, in the deponent's judgment, timber worth twenty shillings laid out upon the said pound. He says in Whitley Ridge Rail there is corn sowed, and there are some rabbits in Broomy Walk. That in Bolderwood Walk several trees have been felled by the keeper of the same and cloven to wood, and that he showed the woodward the several abuses of that kind there. *William Eddy*, sworn, says that being informed by George Furzer that a tree was felled for fuel at Whitley Ridge Walk which was good timber, Mr. Stigins, the master shipwright, and the deponent viewed it, and finding it to be good and well grown, and about 107 feet of timber, marked it with a broad arrow, and sent it into the yard at Portsmouth. They also found the top of another tree containing 70 feet of good timber, which they sent into the said yard, the body of it being carried away. That the deponent being informed by Furzer that there were three knees containing 43 feet of timber stolen out of the Forest, and carried by Brown to Heath, the deponent viewed them, and though he set the broad arrow on them, they were afterwards disposed of by Brown, as the deponent has been informed. 31 May 1698. 12 April 1695. *George Furzer*, sworn, says he found six dotard trees or stubs cut down in Boldred Walk by Robt. Butcher, keeper of the said Walk. He told the keeper of it, and he pretended he knew nothing of it, but the persons that cut them down said it was by order of the keeper they did so. 6 May 1696. The deponent found several coal fires in Brackley Wood sold to Nicholas Hatch by the said keeper. He says he has often complained at the Swainmote Court, but the woodward bears so great sway with the juries that they seldom find any guilty. 10 May 1696. Four beech trees were cut down and clove to wood for the said keeper by one Whitehorn. 10 Dec. 1697. Five beech trees cut down and clove to wood by one Boon in Bolderwood Walk for the same keeper, besides his

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cutting down alders and birch trees, which are not broose for deer, to the destruction of the said Walk; and in 1696 411 loads of broose wood, besides in the same year the said keeper made a colt-pound in Brackley Wood, where was cut down several young beeches and good oak timber to make the same, contrary to the law of the Forest, and was offered 10*l.* for them, but afterwards sold them for 12*l.*, as the deponent has been informed. Further, the said keeper cuts a great deal of broose in his Rail and sells it, saying it belongs to him. He believes in 1696, besides Burley bailiwick, there were cut down 2,000 and odd loads of broose wood in the Forest. The keepers cut what broose they please, but what account they give thereof he knows not.

1 June 1698. *George Furzer*, sworn, says that Nov. 30 1694, in Denny Walk, John Saunders, keeper there, cut down 6 knees, being 50 odd feet of timber, in his broose wood, and sold them, though they had been seized before by the deponent. *Mr. Philip Ryley*, sworn, being asked whether any complaint had been made before November 1694 of the said John Saunders having cut down timber, says that in 1693, complaint having been made to the Lords of the Treasury of the said Saunders having cut down a great oak tree within Denny Rail, where he was keeper, that matter was heard before their Lordships, and a letter written by them to the Duke of Bolton bearing date November 1693 to dismiss the said Saunders from his said employment. *George Furzer* being asked when the said Saunders was turned out from being keeper, says, he was not dismissed till the year 1696. He says that February 1695-6, he found two young trees cut down by the said Saunders in his Rail, and the roots covered up. In 1696 the said Saunders cut in his Walk 198 loads of broose wood. In Irons Hill and Lyndhurst Walk, 10 Nov. 1695, the deponent found one fuel tree assigned by the woodward to Thomas Carter, junior, keeper there, which he sold. 5 May 1697 the deponent found one Spencer cutting several parcels of broose wood for the said Carter, though there is no call of broose deer in that Walk, and there are there usually 20 coal fires in a year. 13 Dec. 1697. The deponent found and marked up twenty odd broose boughs cut down, which was very good timber, in Lady Cross Walk, where the said Carter is now keeper. In Castle Mallard Walk, 25 April 1696, the deponent found several parcels of broose wood carried away by a collier. 18 April 1698. The deponent was showed by Charles Heath where ten oak trees had been cut down and clove to wood, when Cooper was keeper there. 21 Jan 1696-97. The deponent found cut down in Burley Walk one large oak tree, good ship timber, containing 170 feet; and after the deponent had seized it William Farver, the keeper of Burley, sold it. He says that in Mortley in Ashurst Walk, he seized one oak tree, cut down by John Buckle, as the keeper told the deponent, and afterwards sold by the woodward to the said Buckle for 12*l.* He says in Ashurst Rails, in Denny Rails, in Lady Cross and Witley Ridge, he has known corn sowed, and he has observed rabbits in some of the said Rails. *William Oxford*, a Regarder and Deputy Surveyor, being asked what abuses he has known committed in the New Forest in timber or wood there; he says he has observed unlawful broosing by the keepers, both for

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quantity and quality; their broose has not been only wood but timber, and they have broosed young trees that ought not to be broosed, which has much wasted the King's woods, and has been a detriment to the Forest. Assignments of fuel made by the woodward of so great number of trees, partly for the fee's sake and partly for the bark's sake, as the deponent supposes, has been very injurious to the Forest. The burning, sawing and cutting down trees, and sold by the woodward, some worth 12*l.* or 14*l.* a piece. He says in Burley Walk, to the best of his remembrance, the woodward set out about ten large oaks, about 5 or 6 loads in a tree, for repair of the garden pales of Burley Lodge; and the woodward, though the deponent was then present, showed him no warrant for his so doing, as he ought to have done. Being asked whether the woodward has presented at Lyndhurst Court the offences committed in the New Forest, he says he has presented very few, if any at all. About three or four years since, the Grand Jury at Lyndhurst Court made a presentment of the great abuses of broosing in the New Forest, without the woodwards joining with them. He says the woodward has sometimes assigned to houses uninhabited a tree, upon pretence that the house would be prejudiced without now and then a fire in it; and he further says, that in Lady Cross, Whitley Ridge, and Ashurst Rail, ground has been ploughed.

4 June 1698. *William Eddy*, a purveyor of the Navy, sworn, being asked what he knows of abuses committed in the New Forest in timber or wood, he says, about 1692 there came an order to Portsmouth for building the *Russell*, and a keel to that ship being very much wanted, the officers sent to him to get beeches in the New Forest to make one. And, ranging the Forest for that purpose, he found several beeches marked up and sold, as good as any he could find for the said ship, some of them near 50 or 60 feet long. At the same time, a keel being wanted for the *Cornwall*, Mr. John Winter bought the said beeches of the person to whom the woodward had sold them, for the *Cornwall*, and they were allowed on by the two overseers of the said ship. About 1693 Mr. Cooper, keeper of Castle Mallard, told him that an oak tree he and his man had seen standing the night before was cut down, squared, and carried to Redbridge before the next morning; and, upon search, the deponent found the tree there, and saw Mr. Cooper mark it for the King; notwithstanding which, the tree was carried away and never afterwards found. Mr. Cooper told the deponent he acquainted the woodward with this, but the woodward took little notice of it. He says he has seen trees of 5 or 6 loads in a tree marked for fuel, and that cutting the elaws and burning down trees has been very prejudicial to the Forest. *William Brudenell*, sworn, being asked what he knows of abuses committed in the New Forest in timber or wood; he says that, being employed by Mr. Ryley, the surveyor, to view the Forest, he observed the pannage was very destructive to the Forest, great quantities of hogs lying there all the year, who eat up the acorns and other mast and the spring of the Forest; and that the colliers cutting up the cover of the Forest, there remains nothing to preserve the spring trees. He says there has scarce any tree escaped broosing. He has observed broose cut from 18 inches to two feet diameter; the young trees are in like manner

spoiled. He has observed, in several parts of the Forest, several trees assigned for fuel which were good timber. He says if the Forest had not been abused, it had, he believes, been better by 1,000,000*l.* than it now is. *William Oxford*, sworn, being asked what quantity of wood he conceives may have been yearly assigned for fuel in the Forest, says he believes not less than 1,500 trees have been assigned, one year with another, for fuel; others compute it at more, and that one tree with another may contain two or three loads. Cross-examined.—*Mr. Ryley* being asked whether he ever complained to the Duke of Bolton of abuses committed by the keepers in broosing or cutting timber; he says he had no opportunity of complaining to his Grace, because of the misrepresentations that had been of him; but he complained to the Lords of the Treasury, who wrote to the Duke, as in the case of Saunders within mentioned: And the said Saunders being after that time continued three years, he thought it in vain for him that was an officer of less note to complain to him. And besides, after that, there was a commission issued from the Treasury of a general inquiry, to which there were several instructions for inquiring into all the abuses of the New Forest. Cross-examined.—*George Furzer*. You having said that one-third of the broose cut came not to the King; What became of the remainder? He says that in Thomas Carter the younger's walk there were 40 coal fires of broose wood containing 120 loads, whereof, the deponent was informed, the woodward gave account but of 20, and who had the rest he knows not. You having said there were 14 coal fires in Ashurst Walk, and but six taken up for the King; who had the rest? He says he knows not. *Mr. John Coalman*, sworn, being asked whether the Duke of Bolton did not receive Mr. Ryley civilly in the New Forest; he says his Grace did receive him civilly. *Mr. Richard Robinson*, sworn, being asked whether he does not know that the Duke of Bolton has not received Mr. Ryley both in the Forest and in this town civilly, he says he has known my Lord Duke receive him very civilly in this town, and believes it was both before and since Fitch's sale. *Mr. John Coalman*, sworn, says that he knows that upon the Duke of Bolton's receiving a letter from the Treasury relating to a complaint made to them of John Saunders by William Eddy, the purveyor, he referred the examination thereof to Sir Charles Wyndham, master keeper of the East bailiwick, Thomas Hobbey and Henry Bromfeild, Esquires, then verderers of the Forest, and they returned to his Grace that he was not guilty of the fact he was charged with, but his Grace afterwards finding him guilty of other misdemeanours turned him out. He says that he knows at Lyndhurst Court, the last summer, the Duke of Bolton gave direction to the keepers to cut sufficient broose for the deer, but no more than was fitting, either in quantity or quality. The reason of this direction was, that several deer died the preceding winter for want of broose. *William Cooper*, sworn, says, at Lyndhurst Court, last summer, the Duke of Bolton, taking notice that the deer had not had sufficient broose, charged the keepers to cut sufficient for them, but no more than was fitting either in quantity or quality. He says that William Oxford, a little before Christmas last, to the best of his remembrance, told him that, upon the deponent's saying to him one had made complaint of him the deponent, the said Oxford

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answered, "that's nothing, give me but half a *Teg*, and it shall be put up and you shall not be turned out." He says, he never saw Mr. Fitch at any assignment of fuel, nor at his lodge, since he lived there, and he has been keeper ever since the latter end of the year 1690, and has been present at all the assignments except one, which was last winter. *John Blake*, a Regarder, sworn, says he was present at the marking 1,000 trees for the Navy, and the biggest part of them were not lopped. He says the tops, as far he can remember, were sold for upwards of 500*l.*, after the purveyor had taken out what was for the Navy's use. He believes the spoiled trees were included with the lop that was sold. *John Barnes* says he was present at the marking the last above-mentioned trees, and some of them were lopped; but the greatest part of them were not so, but were as well preserved as ever he saw trees. The lops and tops were sold for more than 500*l.*; but he cannot be positive whether the spoiled trees were reckoned in. *John Blake* says that when the broose wood is to be taken up the woodward generally sends to two or more of the Regarders to view the same, in order to the taking it up. He says he never saw 4 or 5 feet of good timber in the broose. *John Barnes*, sworn, says he has been often at the viewing the broose wood before it was turned into coalwood, and he never saw any that was worth calling timber containing 4 or 5 feet. He says there are many thousand trees in the Forest which contain more than a load apiece that have never been lopped. *John Blake* says that, a warrant coming down from the Lords of the Treasury for raising 170*l.* 13*s.* 8*d.* by felling of stubs, it was accordingly done; after which, Mr. Oxford telling us he had a letter from Mr. Ryley to fell as many more as would raise 28*l.* 6*s.* 4*d.*, we accordingly did so. Being asked whether it is not usual, on the execution of warrants for raising any particular sum, to raise more, to enable the officer to account; he says he has been with the woodward when he has raised a small matter more than the warrant directed. *Mr. Dickens* says he has known some money more than the warrant directs, but not so much as this sum. *Mr. Ryley*, being present, says the whole is accounted for to the King, and is ready to produce the debit of the account from the auditor, and says the reason why such surplus is more in his warrants than those of the woodward is because he accounts for the whole, and then his fees are allowed, but the woodward first deducts his fees, and then accounts for the rest. *John Blake*, sworn, says he has been with the woodward at the assigning fuel, and, if any fuel so assigned proves sound and fit for the King's use, he gives the keepers charge to reserve it for the King. *John Barnes*, sworn, says he has been often at such assignments; the woodward always takes care to assign nothing but lawful fuel of old decayed stubs, and, in case any part of them should prove good, he charges the keeper to preserve them for the King, which the keeper has often done. He says he never saw any sale made by the woodward by warrant but of old dotard trees, but he has not been at many sales. *John Blake*, sworn, says, he never saw the woodward assign any young trees, or other than dotards.

21 June 1698. *John Barnes*, a Regarder, sworn, being asked whether he has known Mr. Dickins, the woodward, assign

trees for the sake of the bark or for his fees; he says he never knew him do so, but he always assigned lawful fuel; but he was not always with him at assignments. And to his certain knowledge, the fuellers always importuned the woodward before assignments, and he did not, that he knows of, assign any tree without the consent of the Regarders at any time. And when Mr. Oxford was present, he always consented before the axe was put to the tree. Being asked what number of trees may have been assigned for fuel in a year, he says he believes about 500 or 600; some of them may contain one tun, some two, some more or less. Being asked whether it has not been the ancient custom for the woodward to assign whole trees for fuel; he says it has been so to his knowledge these 25 years, and the woodward has always had the bark. Being asked whether Mr. Dickins, the woodward, was present at Lyndhurst Court at the presentment; he says Mr. Dickins was not present, for it was agreed in an alehouse, and Mr. Diekins knew not of it till it was read in Court. *Francis Cleverley*, sworn, being asked what he has known of the woodward's assignments of fuel; he says that above 20 years since he was present when the woodward assigned, at the importunity of Mr. Oxford, a tree for fuel which was the unlawfulest tree that the woodward assigned, to the best of his knowledge. Mr. Oxford importuned the woodward often before he did it. It was the first tree the woodward assigned.

23 June 1698. *Francis Cleverley*, sworn, says he was never present at any assignment of fuel, but any tenant, if he desired it, had his choice of beech or oak, and one of the assignments was generally of beech. In the summer season they had oak, because it would burn better than beech; and in winter they had beech because it burnt best, and Mr. Oxford was generally asked, if present, whether he approved of the trees assigned, and if he did not approve the same they were not marked by the woodward's axe. He has several times heard the woodward order the keepers that if any wood assigned was fit for timber, they should stop it. He has known trees of one or two loads and some more, some less, assigned for fuel when he was in the field, but he was not always there: he says he speaks generally for Lyndhurst. He says when he was in the field, he never knew any wood assigned to a house uninhabited, save one, and the landlord of it promised to have a tenant in it by the next assignment. He says he has not known half 20 loads of fuel assigned to any tenement of 8*l.* or 10*l.* a year in Lyndhurst in one year. *William Stryde*, being asked whether the trees in the Forest that carry a load of timber are lopped, he says there are several thousands of trees in the Forest that carry a load of timber that are not lopped. Being asked whether the unlawful cutting, burning and sawing trees in the Forest has not been formerly done as now at present; he says he knows it has been done these 30 years, by unknown persons to the deponent and, he believes, to the officers of the Forest. Being asked whether 1,500 trees have been felled in one year for fuel; he says he knows but two parishes, and in them he has known trees, some of a load, some, of two loads, assigned, some of half a load. He says he was at the felling the tree formerly mentioned by Mr. Oxford in Ashurst Walk to be sold for 12*l.* It was an old detard overgrown tree, but there was timber in

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it, and it was, he thinks, sold too dear. He says he knew the beech (before mentioned) sold to Burgess; it was rotten, both at top and bottom, but sound in the middle, and it was allowed by the two Regarders, then present, to be assigned. *John Whitman* says that about seven, eight, or nine years since, Mr. Winter, who had contracted to build a frigate for the King, wanting a keel for her, bought three beeches which had been set out for sale and had been bought of the woodward. They were hollow at the butt, and defective in several other parts.

30 June 1698. *William Pocock*, being asked what number of stubs has been yearly assigned for fuel wood by the woodward; he says, on search of the books, he finds from October 1696 to this time there has been assigned by him about 771 stubs, as presented by the keepers and regarders. And, from the first of May 1692 to January 1693, he finds about 710 presented, as before. He says some of them might be one, some two, some three load. He has never, since the fire of London, known any presentments made against the woodward; but, the woodward has often made presentments. He says an Indictment being at the last Court made by Furzer against Joseph Brown, for timber taken out of the Forest, the Grand Jury did not find the Bill. Being asked if he knew anything of a presentment made by Furzer of wood found in a man's ground near Ringwood, where the presentment was not found by the Grand Jury; he says, he remembers a dispute about wood carried away, which Furzer followed by track. Being asked whether Robert White's cottage has been lately made a copyhold, he says he knows nothing of it. *Thomas Thorne*, being asked whether cutting, burning, and sawing trees was not practised before the present woodward's time, and whether the wood so broken was not ever sold by the woodward; he says it was ever done so since he can remember: And being asked whether he ever cut down a tree for the woodward's use; he says, he never cut any for him. Being asked whether he knows of a tree cut down by the woodward 18 Nov. 1696, and sold to Wright; he says he knows nothing of it. And being asked whether he was not, upon occasion of informing against Saunders, forbidden to work in Denny Walk till he gave sureties for good behaviour; he says the woodward forbade him, and Mr. Oxford gave his word for him. *Thomas Carter*, being asked whether the woodward has cut down fuel wood without authority, and for his fees and the bark's sake; he says the woodward with the Regarder used to assign fuel wood for the people: ever since he can remember the woodward had the bark of the fuel wood. Being asked whether he knew of any beeches cut in his Walk of 3 or 4 loads; he says he knew three beeches assigned for Mr. Bromfield; they were wind-shaken, and he knows nothing but that they were for fuel: they might be about two loads of wood a piece. Being asked whether the woodward ordered two oaks in his Walk, in 1697, worth 12*l.*, to be cut down; he says he knows but of one tree, and it was sold for 50*s.* for repair of the pound, by order of the Court, and one other tree to make posts and rails. He remembers the woodward ordered a fuel tree to Mr. Hussey, which Furzer stopped. The woodward and Regarders sold it for two and twenty shillings, but when it was sawed it was rotten and wind-shaken and good for nothing. He says, in August 1694, a tree was

assigned to Mr. Hussey, and the top of it was left, which he believes was three tuns; but what became of it, he knows not. *John Woods*, being asked whether Furzer stopped a tree in Lady Cross Walk; he says he the deponent stopped it, and it was afterwards sold by the woodward and Regarders for the King for thirty shillings. This was in 1696, but he remembers not the day. Being asked whether a tree that stood near it was sold by the woodward; he says the top of another tree and that tree were sold for fifteen shillings: it was but a short stump, not fit to be called a tree. Being asked whether there were not three orders in Lyndhurst Court for assigning six stubs for repairing a stable, a turf-house and a well at Lady Cross Lodge; he says there were six trees allowed by three warrants from the Court, and the well and house were repaired. He says that at assignments, the four years he lived there, the keepers were always charged to stop the timber, if there was any. He knows not that the woodward ever assigned to cottages of 8*l.* or 10*l.* a year fuel of 20 loads.

1 July [1698]. *John Blake*, a Regarder, being asked what number of trees he has seen the woodward assign to any person, more than according to the value of their estates; he says he knows not that he has seen him assign half the number he is charged with, and he has often heard the woodward enquire of the value of their estates. Being asked whether the woodward did always charge the keepers if any wood was assigned for fuel that was timber, that they should stop it for the King's use, he says he has often heard him do so. He says he never knew the woodward assign half twenty loads of wood to any tenement of 8*l.* or 10*l.* per annum value. Being asked whether at any time he conceived the woodward assigned trees for fuel for the lucre of the bark or fees; he says he does not know so. Being asked what he knows of the two trees assigned for mending the pig pound in Denny Walk; he says the woodward had orders for two trees for that purpose; one of them was used in the repair, and the other sold for 3*l.* to pay the charge thereof. Being asked what he knows of two oaks the woodward ordered to be cut down in Whitley Ridge Walk; he says the woodward had an order for cutting them for repair of the pound there, and one of them was sold for 50*s.*, and the other was employed in mending the said pound, and he knows of no other trees he sold there. Being asked what the tree was worth that was cut down with five others in Lady Cross Walk for repair of a well, a stable and a fodder-house there; he says he was present when a workman viewed it, and he valued it at 4*l.* 10*s.* Cross-examined.—Was there not a second view of that tree, and when was that view? He says he supposes it was after the surveyor stopped it. How long have you been a Regarder, and have you been at all assignments? he says he has been so four years, and has been at a great many. *John Barnes*, a Regarder, being asked whether the woodward used to assign wood without order; he says that by order of Lyndhurst Court, for repairs, he assigns to the value of forty shillings each order. He says he was at assigning two trees in Ridgley Walk for repair of the pound, one of them was used there and the other sold for 50*s.* by order of Lyndhurst Court. He remembers three orders from Lyndhurst Court for repair of a well, a stable and outhouse, and six stubs were assigned for that

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purpose, and they might be three cart loads of wood, one with another—he is certain that was the most—such wood he says was worth about 10s. a load. *Mr. Ryley*, being present, says all assignments of whole trees for fuel are against fuel law, for they, according to their claims, ought to have only dry wood or lops, for it is an offence to carry an axe in the Forest, except the King's; and those assignments let in many hundred axes. He thinks this practice commenced in this woodward's time, for in 1677 it was complained of in the Treasury, and *Mr. Dickins*, the woodward, was ordered not to make such assignments, which order was confirmed by a warrant from the Treasury of the 2nd of July, 1679; he tenders to the Committee copies of the said order and warrant.

- (*k*) 25 May. Certificate that the undersigned believe the following dimensions to be a sufficient fence to keep out all sorts of deer and cattle, to secure safely the enclosed ground, (to wit) a ditch of 12 feet broad at the top and 4 feet broad at the bottom and 5 feet deep will raise a bank 8 feet broad at the bottom, 2 feet at the top and 8 feet high, in which said ditch contains 40 feet running measure, for digging, placing and making the said bank may be worth in some sort of ground 3*d.* per foot and some less, which comes to 10s. per pole. One hundred acres in a square piece contain in compass 506 poles, which at 10s. per pole, as aforesaid, amounts to 253*l.* 20 such pieces make 2,000 acres, which will cost 5,060*l.* But if it happens that some enclosures have more in length than in breadth (as it is most like to be), such enclosures will contain more in compass than a square piece, as is plainly demonstrated by a plate or draft (*Annex (l)* below) herewith shown. *Signed* Edward Prince, John Woods, Tho. Carter, H. Dickins. *Dated* 16 May, 1698. *Endorsed* as reported this day. No. 1.
- (*l*) 25 May. Draft of Enclosures designed in the New Forest, May 16 1698, made by Edward Prince. Two papers, each being a plan. [Referred to in preceding, as annexed thereto.]
- (*m*) 25 May. Estimate as follows:—For digging the ditch and making the bank, according to the design, viz., The ditch to be 10 feet at top, 5 feet at bottom and 4 feet 6 inches deep. The bank to be 10 feet at bottom 5 feet at top and 6 feet high; the side of the bank next the ditch and the barn to be turfed with sods, which sods shall be 2 feet long, 9 inches wide, and every 4 feet to have a sod 4 feet long to bind into the earth, each rod of this work containing 16 feet 6 inches, running measure, at 5 shillings per rod. The top of the bank to be planted with two rows of white thorn, 4 inches asunder; and betwixt the two rows of white thorn, a row of young oaks or acorns; for each rod of this work 8 pence running measure. These white thorns and plants will come to perfection in half the time of others, they being planted in new removed ground, which white thorns and plants will become a good fence by the time the posts and rails are decayed. The posts and rails are to be placed upon the bank as the draft describes. To every rod of work, running measure, there must be two posts and a pale; and 4 feet above the bank and 3 feet in the ground four rails, the rails being double, the posts standing 8 feet asunder. The scantling of the rail to be 5 inches by 3 inches and a half upon the upper side: for cleaving, framing and setting of the above said posts and rails, 2 shillings and 4 pence per rod, running measure.

Digging the ditch and making the bank, five shillings per rod, running measure. For planting the top of the bank with white thorn and young oaks or acorns 8*d.* per rod, running measure. For cleaving, framing, and setting the posts and rails upon the bank at 2*s.* 4*d.* per rod, running measure, which in all comes to 8*s.* per rod, running measure.

This Estimate is made by John Fitch. *Endorsed* as reported this day. No. 2.

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(n) 25 May. Paper stating as follows:—

In September 1694 there were in New Forest about 32,431 dotard and decayed trees (besides what were in the bailiwick of Burleigh, which is about $\frac{1}{8}$ th part of the whole), and there have not been any sales since considerable to lessen that number, but time and accident will add to it.

An enclosure that may answer the purpose of the Bill for increase and preservation of timber in the said Forest, may fitly, as I most humbly conceive, consist of a ditch, about 3 feet at bottom, 7 feet at top, and about $4\frac{1}{2}$ feet deep. A bank above that, of about 5 feet; with a stockade of posts and double rails about $4\frac{1}{2}$ feet. The workmanship of all which enclosure, to consist as aforesaid, (with carriage of timber as in some places it may happen to be necessary), will cost about seven shillings per rod, and every five rods of work will require one load of timber, but the growth and the goodness of the timber may be such as may extend it to 6 rod or more, as the contrary may render it less.

An enclosure of half a mile square, which may contain 160 acres, will, at the above estimate, require about 128 loads of timber. Of one mile square, which may contain 640 acres, will require about 256 loads of timber. Of $1\frac{3}{4}$ mile square, which may contain 1,960 acres, will require about 460 loads of timber. Of 2 miles square, which may contain 2,560 acres, will require about 512 loads of timber.

All which is humbly submitted to your Lordships' great wisdom.

Signed PHIL. RYLEY,
EDW. WILCOX,
WM. OXFORD.

Endorsed as reported this day. No. 3.

(o) 25 May. Paper stating as follows:—

16 May. The several persons who had delivered in proposals in writing for the manner of enclosing part of the New Forest, being asked what the charge might be of keeping in repair for 20 years the fences proposed by them to be made for that purpose, answered to the effect following:—*Mr. Ryley*: The fence proposed by me will be kept in repair for less than 12*d.* per rod for 20 years. *Mr. Fitch*: The fence proposed by me will be little charge keeping in repair. *Mr. Prince, Mr. Woods, Mr. Dickins, and Mr. Carter*: The bank proposed by us will be kept in repair for 12*d.* per pole or less. *Mr. Oxford*: Nothing without a rail can be effectual to keep out red deer. *Mr. Ryley* being asked what fence was made to secure the new enclosure in the Forest of Dean, said: A great part of it was an old stone wall, other part of it a ditch and hedge at the top. There are no red deer in the Forest, but there are some in the woods near it, and there are but few cattle there.

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18 May. The persons following being asked what they know of an enclosure formerly made to keep deer out of a part of the New Forest, *William Eddy* says there is a ditch about 12 feet wide, with a bank 7 feet high about Herne Hill. *William Oxford* says that ditch was made 26 or 27 years since. The bank was 6 or 7 feet high, and the ditch broader, but the fence never was effectual. He has not known any product of trees there, because the cattle frequently went in. *John Fitch* says he has known it 24 years, but he never thought it fit to keep out deer. *Thomas Carter* says trees were grown up there, but the banks being thrown down by people, the cattle got in. *Endorsed* as reported this day. No. 4.

(p) 27 May. Amended* Draft of Clause, marked A, forming, as amended, § 4 of the Act, viz.:—"And be it farther enacted by the authority aforesaid, that the said Enclosures shall not be ploughed or sowed with any eorn, or fed with any cattle, or be at any time or times hereafter [turned into coppice wood or] kept [or preserved] for underwood, but *in such manner only as shall be fit for the raising and preserving of* [for] timber [only] for the use of the Navy [and that whensoever any wood or timber shall at any time or times hereafter be directed to be felled in any part of the said Forest or the said Enclosures one or more of the Verderers and two or more of the Regarders together with a Commission Officer of his Majesty's Navy shall first view and allow the same.]" [Agreed to, as amended, in C.W.H. on 25 May, and agreed to on report this day. MS. Min. L. J., XVI. 300.]

(q) 27 May. Engrossment of preceding Clause A, partly amended.

(r) 27 May. Amended Draft of Clause, marked B, forming, as amended by adding the words in italics, § 11 of the Act, viz.:—"And be it further enacted, that at all times hereafter, when any sale of wood shall be ordered to be made within the said Forest, public notice thereof shall be given by the proper officers of the Forest in all the adjacent market towns, three weeks at least before such sale, of the time and place where such sale shall be made, *and that the officers who are usually in that case intrusted do set a valuation before the day of sale of the wood to be sold, of which valuation to be made notice shall be given to two or more of the verderers of the said Forest, and the person or persons who at the time and place aforesaid shall offer most money for the pareel of wood then to be sold, over and above the same was valued at, making his proposal in writing, and giving good security for payment of the said money, shall be the purchaser.*" [Added in C.W.H. on 25 May, and reported this day, when it was amended, on recommitment, and agreed to, as so amended, on report. MS. Min. L. J., XVI. 300.]

(s) 27 May. Engrossment of preceding Clause B, partly amended.

(t) 27 May. Amended Draft of Clause marked C (corrected to D), forming, as amended, § 13 of the Act, viz.: "And be it further enacted, That if any Officer whatsoever shall offend in cutting down *and disposing of* any trees [for making or repairing the Enclosures to be made as aforesaid] contrary to the intent of this Act, such Officer shall, for such his offence, forfeit his

* Omissions are shown by square brackets and additions by italics.

"office." [Added in C.W.H. on 26 May, and reported this day, when it was amended, as above, on recommitment, and agreed to, as so amended, on report. MS. Min. L. J., XVI. 300.]

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(v) 27 May. Engrossment of preceding Clause, marked C. Identical with preceding before amendment.

(v) 27 May. Draft Clause, marked D (corrected to C), forming §12 of the Act. [Offered in C.W.H., on recommitment, and added to the Bill; and agreed to on report this day. MS. Min. L. J., XVI. 300.]

(w) Amended draft of Proviso as follows: "Provided always and
"be it further enacted by the authority aforesaid, That the
"Surveyor nor any Officer of the New Forest shall take any fee,
"or receive any gratuity or reward whatsoever by the sale of the
"remainder (if any) of the dotard trees or lops or tops of the
"trees that shall be felled for the Enclosure to be made by virtue
"of this Act [but that the sale shall be eried at the market towns
"adjoining to the New Forest *three weeks at least before such*
"*sale*, and the fairest bidder shall be the buyer."]

1256. April 4. E. Gainsborough's Estate Act.—Amended Draft of an Act for vesting lands in trustees to be sold for payment of the debts of Wriothesly Baptist, late Earl of Gainsborough, deceased. The Amendments are of a formal character. No amendment in the Commons. [Read 1^a this day; Royal Assent 16 May. L. J., XVI. 257, 287. 10 Will. III. c. 45 in Long Cal.]

Annexed:—

(a) 14 April. Lords' Amendments to the Bill. [Made in Committee and reported this day. Com. Book. L. J., XVI. 262.]

1257. April 7. Knight's (Exchequer Bills) Bill.—Commons' Engrossment of an Act for punishing John Knight, Esquire, for procuring counterfeit endorsements to be made upon several Bills made forth at the Receipt of Exchequer, commonly called Exchequer Bills. The Preamble concludes as follows:—"And whereas John Knight, Esquire, late Receiver-General of his Majesty's Revenue of the Customs and other duties, is guilty of high crimes and misdemeanours by procuring Reginald Marriott and others to write counterfeit endorsements upon a great number of the said Bills of Credit issued as aforesaid, all which counterfeit endorsements were made and contrived to deceive and endamage his Majesty and his good subjects, and for the private and unjust luere of him, the said John Knight, and paying the same into the Receipt of Exchequer as if received for Customs, whereas he well knew that the said Bills had not been received for the said duty, in great deceit of his Majesty; And whereas the said John Knight, being lately one of the Trustees, did fraudulently and for his unjust gain endeavour to prevail with Samuel Edwards, a clerk or servant to the said Trustees, contrary to his duty to accept from him, the said John Knight, in lieu of money which he was to pay to the said Trustees or their Treasurer, Bills of Credit not being of the nature of those which the said Trustees are obliged, in pursuance of the aforesaid Acts of Parliament, to exchange for money; all which said frauds and wicked practices tending to the great damage of his Majesty and his good subjects, and being highly destructive to the public credit." The remainder of the Bill, *mutato nomine*, is almost identical with Duneombe's Bill (No. 1228), except in reading ("offenees") instead of ("high crimes and misdemeanours") at the beginning of the first

1698. enacting Clause in § i., and ("fourth day of January") instead of
 — ("five and twentieth day of January") in that Clause and elsewhere
 No. 1257. in the Bill. *Parchment Collection*. [Brought from the Commons
 this day. L. J., XVI. 259. Second Reading negatived on 14 May.
See also No. 1279.

On 14 May Counsel were called in for the petition of John Knight against the Bill. *Sir Thomas Powys*. We desire he may be tried at law or otherwise to proceed in a known method. *Sir Bartholomew Shore*. If this was a crime it is punishable at law. This is only to punish a person in a single case which if a foul may be punished at law. He lies liable to an indictment at common law. Moved to have Marriot† examined against Knight. *Moved* to reject the Bill—*Resolved* in the affirmative. MS. Min. L. J., XVI. 285].

1258. April 7. Burton's (Exchequer Bills) Bill.—Commons' Engrossment of an Act for punishing Bartholomew Burton, Gentleman, for false endorsing of several Bills made forth at the receipt of Exchequer, commonly called Exchequer Bills. The Preamble concludes as follows:—"And whereas Bartholomew Burton, Gentleman, "late Cashier of his Majesty's Revenue of Excise, is guilty of high "crimes and misdemeanours by false endorsing several of the said Bills "and paying the same into the Receipt of Exchequer, as if received "for Excise, whereas he well knew that the said Bills had not been "received for the said duty, in great deceit of his Majesty." The remainder of the Bill, *mutato nomine*, is almost identical with Duncombe's Bill (No. 1228), except in reading ("making any payment there to his Majesty") instead of ("making any payments there to his Majesty upon any account whatsoever"), and ("offences") instead of ("high crimes and misdemeanours") in § 1, and also ("fifth of January") instead of ("five and twentieth of January") in § 1 and elsewhere in the Bill. *Parchment Collection*. [Brought from the Commons this day. L. J., XVI. 259. On 16 May Counsel were called in upon the petition of Burton against the Bill. *Sir Thomas Powys* and *Sir Bartholomew Shore* were heard for the Petitioner and the Bill was rejected. MS. Min. L. J., XVI. 286.]

1259. April 8. Houghton's Estate Act.—Consent of A. Windham to the passing of the Bill. *Dated* 29 March 1698. *Attested* Mau. Kendall, Wm. Windham, J. Baker, Jun. [Read in Committee this day. Com. Book. The Bill was brought from the Commons on 30 March and received the Royal Assent on 16 May. L. J., XVI. 251, 287. 10 Will. III. c. 50 in Long Cal.]

Annexed:

(a) 8 April. Similar consent of Isabella Gipps. *Dated* 18 March, 1697-8. *Attested* John Craske, J. Baker Jun. [Read in Committee this day. Com. Book.]

1260. April 8. Ettrick's Estate Bill.—Commons' Engrossment of an Act for vesting in trustees certain lands, parcel of the estate of Jane, late wife of Anthony Ettrick, Gentleman, to be sold for payment of debts, and for making a provision for Elizabeth, their daughter, an infant, and heir to her said mother. Whereas Anthony Ettrick, Gentleman, in July 1693 did intermarry with Jane Starling, daughter

† Before the record of these proceedings in MS. Min. occurs the following entry:—Mr. Marriot was called in and told he must not go away till ordered by the House, and sworn.

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and heir of Richard Starling, deceased, who was nephew and heir of Sir Samuel Starling, late citizen and alderman of London, then deceased, the said Jane then having no fortune or provision, and there being a contest whether diverse messuages, lands, tenements, and hereditaments, late the estate of the said Sir Samuel Starling (whereof the lands and hereditaments hereinafter particularly mentioned are parcel), after the expiration of a term for years which was to expire, and did expire the 25th day of March 1695, did belong to the said Jane or to Samuel Starling, a nephew of the said Sir Samuel Starling, or his son, upon the limitations in the last will of the said Sir Samuel Starling, who had before vested the said lands in trustees in fee, in trust to convey the same to such person or persons and for such estate and estates as he should by writing under his hand and seal or his last will in writing limit. And thereupon several suits were commenced in Chancery, and the matter there contested, and at last, in Michaelmas Term 1696, it was decreed that the said trustees should convey the said estate to the said Jane and her heirs, which accordingly they have done, and by reason of the great charge the said Anthony Ettrick was put unto in the prosecution and defence of the said suits, and of great sums of money due from the said Jane for her education and maintenance before her intermarriage, when she had no estate to support her, which the said Anthony Ettrick was compellable to pay, and did pay, whereby, and by reason of the charge he was put unto in the support of his said wife before the estate was recovered, the said Anthony Ettrick became and stands justly indebted to several persons in the sum of 2,348*l*. And in or about July last an account was made up of what debts the said Anthony Ettrick had contracted upon the occasions aforesaid, which amounted to the said sum of 2,348*l*. And the said Jane, being then near of age, with the consent and approbation of her mother and other relations, did agree that so much of the said estate should be sold when she came of age as should be sufficient to discharge the said debts, she being very desirous that the debts contracted by her husband upon her account should be paid out of her estate. Whereupon the said Anthony Ettrick, by the free and full assent of the said Jane, to enable himself to pay the said debts, did make several contracts and agreements in writing with sundry persons for sale of some parts of the premises for the sum of 2,447*l*., being of the yearly value of 115*l*., whereby the said Anthony Ettrick stands obliged to convey or cause to be conveyed good estates of inheritance to several purchasers of the purchased premises, and received part of the purchase money, and put them in possession. Since which agreements the said Jane died, being then within a month of full age, leaving Elizabeth, her only daughter and heir, an infant of about the age of four years, whereby the said Anthony is disabled to perform the said Agreements or raise money to pay his said debts, and the said Anthony Ettrick will not only be in great danger to be ruined, unless some course be provided to enable him to perform the said agreements for sale, whereby a competent sum may be raised for discharging the said debts, but the said estate will be racked and torn by judgments, extents, and sequestrations. And forasmuch as the said Anthony Ettrick hath no other means of satisfying the same or preserving himself from prosecutions at law upon the said contracts but by sale of such parts of the premises as are comprised within the said contracts, besides which there will remain lands of about the yearly value of 300*l*. to the heirs of the said Jane. The Bill therefore enacts, That the several lands and hereditaments lying in the Counties of Bedford and Surrey shall, from and after the first day of May 1698, be vested and settled in Thomas Dolcman, Esq., Richard Belasyse, Esq.,

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and Edward Ettrick, their heirs and assigns, in trust to make sale thereof in such manner as in their judgments may best conduce to the said Anthony Ettrick's performance of the said agreements for sale, and with the monies thereby raised to pay his said debts and the charges of passing this Act. That the said Anthony Ettrick, being seized of all the estate of his said late wife for his life, as tenant by the courtesy, and his said daughter entitled to no part of the profits thereof till after his decease, it is enacted that for the support and maintenance of the said Elizabeth, during the life of her said father, the said trustees, their executors, administrators and assigns, shall stand possessed of the several rent charges following to be issuing out of the rest of the premises not appointed by this Act to be sold, that is to say of and in the yearly rent of 50*l.* from and after the said first day of May 1698, until the said Elizabeth shall attain the age of fourteen years, and, from and after she shall attain the said age of fourteen years, of and in the yearly rent of 100*l.* till her marriage, and from and after her marriage of and in the yearly rent of 150*l.* for sixty years then next ensuing, if the said Anthony Ettrick and Elizabeth both so long live, to be paid yearly at Michaelmas and Lady Day by equal portions, with power of distress, in trust nevertheless to employ the said respective yearly rents for the education and maintenance of the said Elizabeth. A Proviso that if the said Elizabeth marry without the consent of the said trustees then the said yearly rents to cease and determine. A Saving of all rights to his Majesty and all others, other than the said Anthony Ettrick and Elizabeth and her heirs. *Parchment Collection.* [Brought from the Commons this day. L. J., XVI. 260. On 4 May Counsel were heard and witnesses examined for the Bill and for the petitioners, and the Bill was rejected. MS. Min. L. J., XVI. 273.]

Annexed:—

(a) Breviate of the Bill.

1261. April 13. Ettrick's Estate Bill.—Petition of John Knott, son of William Knott, late of Harpswell, in the County of Lincoln, Gent. Petitioner, by the persuasion and application of his father, was lawfully and publicly married by licence on 27 April 1691 to Jane Starling by Mr. Smyth, parson of the parish of Harpswell. Mr. Anthony Ettrick, having by unlawful and indirect means, notwithstanding he had notice of Petitioner's marriage, likewise married the said Jane two years after, is now endeavouring to procure a Bill to enable him to sell divers lands in the Counties of Hertford, Bedford, Middlesex, and Surrey, as tenant by courtesy, Jane being lately dead, leaving issue a daughter. Petitioner is advised that Ettrick is not tenant by courtesy, and that, if Jane died seized of any lands of inheritance, Petitioner has a right to the same as such tenant. Prays to be heard by Counsel against the Bill. L. J., XVI. 261.

Annexed:—

(a) 13 April. Petition of Samuel Starling, the elder, of Hornsey, in the County of Middlesex, Esq. Petitioner's late uncle, Sir Samuel Starling, of London, Knt., conveyed his lands in the Counties of Bedford, Hertford, Middlesex, and Surrey in 1672 to Sir Joseph Sheldon and Sir James Edwards, in trust to convey them to such persons as he should by will direct. Sir Samuel by his Will dated 17 August 1673 directed that the profits of his estate should be received by the Brewers' Company in London for payment of several charitable gifts until Lady

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Day 1695, and that, within six months after that, the trustees should convey the estate to his nephew and heir apparent, Richard Starling, Petitioner's elder brother, for life, or if he should be dead to his heirs male, and in default thereof to Sir Samuel's right heirs male, failing which, to the heirs male of Petitioner. Sir Samuel died without issue in November 1674, and Richard died about 16 years ago, without issue male, leaving only a daughter Jane, who was married to John Knott, now living. Petitioner, as brother of Richard and heir male of Sir Samuel, is therefore entitled to the estates. If Ettrick married Jane, as he alleges he did, it was after her marriage with Knott, and most of the debts, for the payment of which it is proposed to sell the estate, were contracted in procuring Jane to be his wife. Neither Ettrick nor Jane have any title to the estate, but, even if Petitioner had no other right, yet, if Jane's daughter by Ettrick (who is not four years old) should die without issue, he would be entitled to the estate as heir to her. Prays to be heard against the Bill. L. J., XVI. 261.

(b) 13 April. Petition of Joseph Starling, of the city of Norwich, Gent. Sir Samuel died without issue, leaving no brother but Petitioner then alive, and two nephews, Richard and Samuel, sons of Richard, his and Petitioner's eldest brother, deceased. Jane, after marrying John Knott in 1691, was taken from him in 1693, for a considerable sum of money given by Ettrick, an Attorney, to John's father, William Knott, and married, as is pretended, to Ettrick. Jane died about 24 Feb. last, and Petitioner is entitled to the estate, as heir male to his late brother, who by his Will appointed his own right heirs male should have it before the heir male of his nephew Samuel. Ettrick having, upon a suit with Samuel, wherein Petitioner was no party, got into possession of the estate, has brought the Bill under pretence of paying the debts of Jane, who in reality had none. Prays to be heard against the Bill. L. J., XVI. 261.

(c) 16 April. Petition of Samuel Starling, Junior, an infant of about the age of four years, by Samuel Starling, Esq., his father and next friend. Petitioner is entitled to the estate as the only son and heir of Samuel, the nephew of Sir Samuel, to whom all Sir Samuel's estate is expressly directed to be conveyed. Prays to be heard against the Bill. L. J., XVI. 265.

1262. April 15. Sir C. Bradshaw *v.* D. Newcastle.—Petition and Appeal of Sir Cornwall Bradshaw, Knt. In 1690 Respondent (then John, E. Clare) and John White, Esq., brought a Bill in Chancery against Petitioner, William Bridges, Esq., Andrew Card, Gent., and others, setting forth that in 1682 Gilbert, late E. Clare, covenanted with John Hynd, a goldsmith of London, to lease for building purposes to him or persons appointed by him, for 61 years from 25 March 1683, at a peppercorn rent for the first year and 250*l.* a year for the rest of the term, in consideration of 617*l.* 10*s.*, several messuages, &c., in or near Clare Market, in the parish of St. Clement Danes, London, then in the possession of Henry Oldham and others. That it was agreed that, when the houses were second floor high and the shops finished, the Earl, at Hynd's request and cost, should lease them to such persons as Hynd should appoint, for the same term, reserving a yearly rent on each of not less than 30*s.* and not more than 40*s.* a foot, the fronts only to be measured: That on 5 March 1682 the said Earl let the houses, &c., first mentioned to Card and Cawdron upon the said

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trust, and agreed that Hynd and his assigns might have the benefit of a lease made to him for free passage from Lincolns Inn Fields to Playhouse Alley, he and they paying the rent thereon reserved: That in 1688 the said Earl made his Will and named White his executor in trust for Respondent, and on 16 October 1685 Appellant became bound with Hynd in a large sum to Serjeant West and Jane Kingdon. That for further securing 3,000*l.*, part thereof, Hynd on 28 May 1685 mortgaged all his interest in the premises to Lady Pye, on the condition that he was to pay her the 3,000*l.* and interest in August following: That Hynd afterwards becoming a bankrupt, the Commissioners assigned all his interest to John Browne and Thomas Sands, and that Appellant and William Bridges, Esq., pretended some interest in the premises by virtue of some Extent, and that Hynd and his assigns had not performed the agreement. The Plaintiffs therefore prayed that the arrears of the rent might be paid and the trust performed, or that the premises might be reconveyed free of all encumbrances to Respondent. Petitioner and Whitlock Bulstrode thereupon brought a Bill in Chancery against Respondent, White and Card, setting forth that Bulstrode had, by Petitioner's direction and pursuant to a decree in Chancery, paid the 3,000*l.* to Lady Pye and taken an assignment of the mortgage in trust for Petitioner, that Hynd had performed his Articles, had laid out above 5,000*l.* in building, had paid the fine of 617*l.* 10*s.* and a good part of the ground rent, and had let the houses and shops, when built, for 558*l.* 10*s.* a year, but that the tenants were disturbed by the late and present Earls' entries on the premises, by their forbidding the shops to be used as such and ordering the tenants to pay none but the Earls or their agents, whereby the tenants were driven away and the houses and shops fell to less than half of what they were before; and praying, therefore, that the Articles might be performed and the houses, &c., enjoyed accordingly, and that they might be allowed what losses they had so sustained. Both Causes were heard on 1 Feb. 1691. The Court referred it to a Master to certify what rent had been paid, what remained in arrear for the 250*l.* a year for the premises in Bear Yard and for the rent of 14*l.* a year for the passage thence into Lincolns Inn Fields, when the houses and shops in Bear Yard were finished, to whom they were let and at what rent. It was further decreed that the leases of the premises in Bear Yard should, according to the Articles, commence from Lady Day 1683; that Petitioner and his assigns should hold all the houses, &c., built on the said premises as they had been occupied or let since they were built, and that the ground-rent should be apportioned on such of the houses in Bear Yard as should suffice to pay the same. The Master on 21 June 1693 certified that the houses were finished by Hynd in 1684; that there was due to the Earl John (Respondent) and White at Lady Day 1693, for ground rent 1,827*l.* 10*s.* (over and above the sum of 422*l.* 10*s.* paid to Cawdron, Hill and Andrews, the Earl's agents), and for rent of the passage, 140*l.*; that the houses and shops were let by Hynd's agent at 558*l.* 10*s.* a year, and that Petitioner and Bridges, by Letter of Attorney of 5 May 1688, authorised Hill to receive the rents to their use. Petitioner and Bridges took exceptions to this Report. They insisted that the premises were extended and seized into the hands of James II. in aid of Petitioner, Sir Patrick Trant, Bridges and others, late managers of the revenue of Hearth money for a great sum of the revenue due from Hynd; that the authority they gave to Hill to receive rents was only intended to preserve them from being lost; that it was several years before Lady Pye assigned her interest to Petitioner; that Hill was then agent for

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the Earl John (Respondent), in actual possession of the premises, and was to apply what sums he received towards discharge of the arrears of ground rent and keeping the premises in repair; that Petitioner and Bridges were never in actual possession, nor received a penny of the arrears, and, as they claimed only as creditors of Hynd, ought not to stand charged with the payment of the said arrears. The Court on 25 July 1693 overruled the exceptions and decreed that Petitioner and Bridges should stand in Hynd's place, should pay Respondent and White 1,967*l.* 10*s.* arrears, and take leases of the houses in Bear Yard. On a rehearing on 18 Nov. 1693, it was decreed that Petitioner should stand in Hynd's place, but that Bridges should be charged only with such arrears of rent as had been incurred since he joined with Petitioner in the Letter of Attorney to Hill. Petitioner afterwards sold his interest to William Sutton, and agreed on 14 Dec. 1693 to assign to him his interest and claim by the 15 February following. He also agreed to get Card by that date to execute to Sutton and his assigns such leases as he had been directed to make to Hynd or Petitioner. Sutton accordingly took possession and received the rents ever since Christmas 1693, with the privity of Respondent and his agents, to whom Petitioner gave notice of the sale. Sutton then treated with Respondent about taking some ground adjoining for building purposes. Respondent ordered a draft of a lease to be prepared. Petitioner and Bridges paid him 1,800*l.* towards his arrears of rent, and agreed to pay the residue of the arrears of rent due at Christmas 1693, amounting to 219*l.* 9*s.* 10½*d.*, on the execution of the lease. The lease was prepared by Card and agreed to by all parties. In it the whole premises were charged with the ground rent due to Respondent, because many of the houses were then empty. The Respondent covenanted that when the empty premises should become tenanted and the yearly rents should be increased the ground rent should be apportioned, and that Sutton and his assigns should have distinct leases. Sutton afterwards insisted on having the ground rent apportioned before the lease was executed. The parties accordingly attended before the Master, when Sutton produced a rental of the premises then let, showing only 275*l.* a year. The Master was of opinion that the said premises were not sufficient to answer the ground rent, and consequently the Court ordered all the premises to be subject thereto. Respondent, nevertheless, now refuses to accept Sutton for his tenant, yet permits him to receive the rents, and has obtained an Order in Chancery for the Master to certify what was due for arrears of ground rent at Christmas 1696, and Petitioner is prosecuted for the arrears since Christmas 1693, which Sutton ought to pay. Sutton in 1694 brought in a Bill in Exchequer against Petitioner, and obtained a decree to have the Articles between them performed in specie, unless cause to the contrary were shown in a fortnight. On 12 Nov. 1696 the Court confirmed the decree and ordered a feigned action to be brought against Petitioner in the Office of Pleas of that Court upon a *quantum damnificatus*, to ascertain what damage Sutton had sustained by the non-performance of the Articles. At the trial Sutton recovered a verdict for 100*l.*, although he had quietly enjoyed the premises and received all the rents since his agreement with Petitioner. Petitioner, in obedience to the decree in Exchequer, assigned all his interest to Sutton. Sir John Blencowe, then one of the Barons of that Court, to whom the lease which Petitioner was to get Card to execute to Sutton had been referred for settlement, was of opinion that the ground rent ought to be apportioned, and that Card ought to make several leases, contrary to the decree and order of Chancery. The Court of Exchequer on 7 Dec. 1697 adjudged Petitioner to be in contempt for not executing

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such leases, and Sutton still prosecutes him to compel an apportionment. The Master in Chancery having certified on 10 June 1697 that 219*l.* 9*s.* 10½*d.* was due to the Duke for arrears of ground rent at Christmas 1693, and 600*l.* more at Christmas 1696, the Court, after hearing Petitioner's exceptions, on 17 January last confirmed the report and ordered Petitioner to pay not only the sum stated but also 200*l.* for arrears of rent due at Christmas last. Petitioner took an assignment of Lady Pye's interest merely to obtain some satisfaction for a considerable debt due to him from Hynd, and ought not to have been charged with the said arrears, being but an assignee and having assigned his interest to Sutton, who was in possession of the premises, which were amply sufficient every year to have answered the ground rent. Prays that the said Decrees and Orders may be reversed. *Signed* by Appellant; *Countersigned* Tho. Newport, Fran. Browne, Nath. Manlove. L. J., XVI. 264. [On 17 May, on the petition of the Appellant, the Appeal was dismissed as far as it concerned the proceedings in Chancery. *Ib.* 288. On 6 June *Sir Thomas Powys* and *Mr. Browne* were heard for Appellant, and *Mr. Dobyns* and *Mr. Brydges* for Respondent. The Decree of the Court of Exchequer was confirmed with the alteration set out in L. J., XVI. 310. MS. Min.]

Annexed:—

(a) 2 May. Several answer of the Most Noble John, Duke of Newcastle. Respondent's father, being seized in fee of several houses and buildings, called Bear Yard, near Clare Market, in the possession of Henry Oldham and 34 others, agreed on 5 March 1682 to let the premises for rebuilding to Hynd, and demised them to Cawdron and Card for 62 years in trust to let leases according to the Articles. Hynd broke the agreement, failed to build, and became bankrupt. Several of his creditors, particularly the assignees of the Commission of Bankruptcy, Lady Pye, Appellant and Bridges, claimed the premises and a performance of the agreement. Appellant, by colour of an extent or an assignment of Lady Pye's mortgage to Hynd, got possession, and together with Bridges empowered Hill to receive the rents to their own use. He took no care to pay the ground rent of 250*l.* a year reserved. Respondent in 1690 brought a Bill in Chancery to discover claims and to compel Card to execute the trust or reconvey. Appellant, who insisted on his title under the extent and assignment, declared his readiness to do all required by the Articles; demanded a lease of the nine other houses in Sheffield Street mentioned therein, and in 1690 he and his trustee Bulstrode brought a Cross Bill against Respondent, White, and Card. The Court in 1691 decreed that Appellant should pay what arrears should be certified, and enjoy the houses, &c., built on the premises; that the 250*l.* ground rent should be apportioned on such of the premises in Bear Yard as should be sufficient to pay it over and above the yearly rents to be reserved thereon, and further that Appellant should give in his answer whether he would accept leases of the said nine houses and build them according to the Articles. Appellant, instead of giving in his answer, got the time enlarged for several years, so that the houses fell down, and Respondent thus lost for some years the rent of several of them, amounting to 220*l.* a year. Afterwards, at Appellant's desire, the matters in difference were referred to the arbitration of Mr. Serjeant Darnell, Sir Thomas Powys and Mr. Ewer, but Appellant refused to submit to their

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award, though confirmed by the Court. Thereupon, the Master on 21 June 1693 reported that 1,967*l.* 10*s.* was in arrear at Lady Day, 1693 for the 250*l.* a year ground rent, and the 14*l.* a year for the passage, and that Hill, the steward and solicitor of Appellant and Bridges, had by Letter of Attorney from them received the rents for their use without paying any of the ground rent. Appellant was ordered to pay this sum, his exceptions being overruled. The decree was confirmed on a rehearing, and Bridges quitted all his pretences to the premises. Appellant refused to quit his interest in Bear Yard, but waived his pretences as to the nine houses. After further proceedings for delay, Appellant set up a new and false pretence, that Respondent had agreed to lease the premises to Sutton, and, to countenance this suggestion, prevailed on his son Cæsar Bradshaw to make an Affidavit to this effect, whereas Respondent had always refused to accept Sutton for his tenant, who was a prisoner and insolvent. The Lord Chancellor on 18 March 1696 refused to believe this suggestion, dismissed the Petition and confirmed the Order of 13 Jan. 1696. Appellant then, for further delay, got another reference to the Master, and took exceptions to his report, which on 17 Jan. 1697 were overruled, and Appellant was ordered to pay Respondent 1,019*l.* 9*s.* 10½*d.* for arrears of ground rent due at Christmas last. Appellant then brought a Bill in Exchequer to set aside the decrees in Chancery, but was stayed by an Injunction from Chancery, which Court had not only priority of suit but had in fact adjudged the matter before the suit in Exchequer was commenced. Appellant then brought a new Bill in Chancery, but neglected to serve Respondent with a copy. Prays that the Appeal may be dismissed with exemplary costs, Respondent having been put to groundless trouble and an expense of 1,200*l.* Signed by Respondent. Countersigned Edw. Northey, P. Andrews. Endorsed as brought in this day.

- (b) 2 May. Answer of William Sutton, Gent. Appellant informed him when purchasing the premises that all matters in difference between him and the Duke were adjusted by a decree in Chancery, on the faith of which Respondent agreed to pay him 1,100*l.*, secured by the mortgage of a capital messuage and lands of his, worth 200*l.* a year, in Byfleet, Surrey. Appellant thereupon on 15 Feb. 1694 conveyed to him his interest in the premises, and promised to procure Card to execute to Respondent a lease. Respondent took possession of the premises in Bear Yard, and laid out over 2,000*l.* in repairing them and enlarging a passage for the better convenience of the market. Appellant failing to make him a title, as agreed, Respondent, being unable on that account to sell the premises, brought an English Bill against Appellant in the Exchequer in 1694 to compel him to perform his agreement in specie. Appellant, in his answer, pretended inability to perform the agreement, on the ground that the Court of Chancery had since varied their decree, by subjecting all the premises to the full ground rent of 250*l.* a year. The Court of Exchequer on 26 Oct. 1696 decreed that Appellant should perform his agreement in specie, sell to Respondent the premises in Bear Yard, and cause Card to execute a lease. This decree was confirmed on 12 Nov. following. Appellant is vexatious in involving Respondent in the Chancery Causes, since no lease to Respondent was ever prepared by Card to be

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executed by the Duke's consent, nor was any lease ever tendered to be executed to Respondent by either the Duke or Card, and Respondent was never made a party to the proceedings in Chancery till after the decree for apportioning the ground rent. Appellant has been in possession of Respondent's lands at Byfleet by way of mortgage, to the value of 200*l.* a year, is now endeavouring to foreclose, and has caused him to be arrested at his suit. Prays that the Appeal may be dismissed with costs. *Signed* by Respondent. *Countersigned* Edw. Brydges. *Endorsed* as read this day.

(c) 4 May. Answer of Andrew Card, Gent. Respondent is nowise concerned but as a trustee, and was no party to the suit in Exchequer. In 1694 he prepared a draft lease, at the request of Appellant and Sutton, which Sutton took for the purpose of getting it perused and settled by the Duke's Counsel; but he had no directions from the Duke himself, and knows not whether the Duke approved of it or not. He asks for costs. *Signed* by Respondent. *Countersigned* John Baggs. *Endorsed* as read this day.

(d) 10 May. Petition of Appellant that certain witnesses examined and deeds read and produced but not proved by depositions in Chancery may be made use of at the Hearing. L. J., XVI. 280.

(e) 16 May. Petition of Appellant that the Appeal may be dismissed as to so much as relates to the decrees in Chancery, Petitioner submitting to have the same affirmed, and for further time for hearing the Appeal, so far as it concerns the decrees in the Exchequer. L. J., XVI. 288.

(f) 27 June. Petition of Respondent Sutton. The Order of the House made at the Hearing on the 6th inst. has been altered since first drawn, Appellant having procured the alteration by surprise, without giving notice to Petitioner. The words added, viz. ("upon his, the said Sutton's performing what by the articles in the decree mentioned he is obliged to perform")* will ruin Petitioner, by making him liable to pay 250*l.* a year ground rent ever since Christmas, 1693. Prays their Lordships not to let the alteration stand, or to appoint a day for Petitioner to be heard. Read this day and rejected. MS. Min. No entry in L. J.

1263. April 15. Master's Estate Act.—Letter from P[eter] Legh to Sir Gilbert Clarke, M.P., declaring his consent to the Bill. *Dated* 15 March 1697–8. [Read in Committee this day. Com. Book. The Bill was brought from the Commons on 26 March. Royal Assent 16 May. L. J., XVI. 247, 287. 10 Will. III. c. 51 in Long Cal.]

Annexed:—

(a) 15 April Consent of Sir Thomas Chicheley to the passing of the Bill. [Read in Committee this day. Com. Book.]

1264. April 16. Exeter Hospitals and Workhouses Act.—Breviate of an Act for erecting of Hospitals and Workhouses within the City and County of the City of Exon, for the better employing and maintaining the poor thereof. [The Bill was brought from the Commons this

* These words do not appear in MS. Min.

day, and received the Royal Assent on 16 May. L. J., XVI. 265, 287. 10 Will. III. c. 55 in Long Cal.]

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1265. April 19. *Arnold v. Attorney-General*.—Petition and Appeal of Thomas Arnold. Edmund Arnold, Esq., being seized in fee of the manor of Furthoe, co. Northampton, worth 240*l.* a year, and being minded to settle it so as to be applied to charitable uses, made his Will on 1 May 1675. He left among other legacies, 40*s.* to Appellant, his kinsman, and devised the manor, after his own death and that of his wife, to Sir Lionel Jenkins, Knt., William Dyer, Esq., Matthew Johnson, Esq., and Thomas Bedford, Gent., in trust to pay 10*l.* a year for putting out poor children of and from the town of Nether Heyford apprentices to some honest trades, and 5*l.* a year for the relief of the poor of the town; with like charities of 20*l.* and 5*l.* for Stony Stratford, and 10*l.* and 5*l.* for the parish of St. Giles', Northampton; also 5*l.* a year for the relief of the poor to Upper Heyford, Stowe, and Weedonbeek [Weedon Bec], 20*l.* a year to the maintenance of poor scholars in Merton College, Oxford, 20*l.* a year for a minister at Stony Stratford, and 10*l.* a year to the curate of Pottersbury [Potterspury]. the whole amounting to 120*l.* a year, nothing further being charged on the manor but the expenses of executing the trust. The testator died soon after, and Johnson and Bedford, the surviving trustees, took possession, and in 1672 brought a Bill in Chancery in the name of the Attorney-General against Appellant to have the directions of the Court upon the Will. Appellant, in his answer, claimed the surplus of the estate as heir-at-law. The Court, on hearing the Cause on 5 May 1693, ordered a reference to the Master to ascertain the yearly value of the estate, for which purpose a Commission was issued out. The Master reported the value to be 240*l.* then, and 241*l.* 3*s.* 4*d.* when the Will was made. The Court, on hearing the matter of the Report on 23 July 1694, declared the manor and lands wholly applicable to charitable uses under the Will, but the Lord Chancellor reserved the consideration of the manner in which the surplus should be distributed. This matter being heard on 21 Dec. 1697, the Court decreed that all the profits of the estate should be applied to the charities, and that Appellant was totally excluded from the surplus; that the surplus ought not to go to increase the allowances to the vicar or curate of Pottersbury, nor to a minister at Stony Stratford, but to the other purposes specified in proportion, but that in case Appellant (then Defendant) should release the premises to the trustees, according to the decree, the Master, in taxing his costs, was to make him a liberal allowance out of the moneys arising by the sale of timber on the estate. Appeals from these decrees of 1694 and 1697, for reasons (7) stated, and prays that the Attorney-General and Johnson and Bedford and others concerned with them may be ordered to answer. Signed by Appellant. Countersigned T. Powys, B. Shore, who certify that they "conceive the Appeal may be fit to be brought." L. J., XVI. 267. [At the Hearing on 19 May *Sir Thomas Powys* and *Sir Bartholomew Shore* appeared for the Appellant and the *Attorney-General* and *Mr. Serjeant Wright* for the King. MS. Min. The Appeal was dismissed. L. J., XVI. 292.]

Annexed:—

(a) 6 May 1698. Answer of Sir Thomas Trevor, Knt., his Majesty's Attorney-General, Matthew Johnson, Esq., Thomas Bedford, Gent., and John Buncher, Gent. The testator intended to settle the whole manor to charitable uses, as expressly declared in his Will, without reserving any residuary

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profits for his own right heirs over and above the particular charities and expenses of the trust. On taking the account of the rents and profits of the estate, as decreed, to Lady Day 1697, it appeared that there was due and in arrear to the charities about 40*l.* over and above the rents then due, whereof most was also desperate. The Appeal is, therefore, groundless and frivolous. Pray that it may be dismissed with costs. *Signed* by Respondents. *Endorsed* as brought in this day.

1266. 19 April. Offices Qualification Bill.—Commons' Engrossment of an Act for giving time to several persons to qualify themselves for their offices, trusts and employments.

§ i. Whereas diverse persons, through inadvertence or other hindrance, have omitted to qualify themselves for their respective offices, trusts or employments, by receiving the Sacrament and subscribing to the Declaration, according to the directions of an Act of Parliament made and passed in the five and twentieth year of the reign of the late King Charles the Second, entitled An Act for preventing dangers which may happen from Popish Recusants, and by taking the Oaths appointed by an Act of Parliament made and passed in the first year of the reign of his Majesty and the late Queen Mary, entitled An Act for the abrogating the Oaths of Supremacy and Allegiance, and appointing other Oaths, and also by subscribing to the Association pursuant to an Act made and passed in the seventh and eighth years of his now Majesty's reign, entitled An Act for the better security of his Majesty's person and government; for obviating all doubts and questions touching such their omissions, and preventing all suits and prosecutions by reason thereof, Be it enacted, &c., That all and every person and persons who, through inadvertency or other hindrance, have omitted to qualify themselves for their respective offices, trusts and employments, who on or before the first day of August in the year of our Lord one thousand, six hundred, ninety and eight shall qualify themselves by receiving the Sacrament and subscribing to the Declaration, and by taking the Oaths and by subscribing to the Association, according to the directions of the before-mentioned Acts, shall not be liable to any disabilities or penalties provided or inflicted by the said Acts or any or either of them, but that all and every Act, matter and thing done or to be done by them or any of them, in relation to their said offices, employments and trusts, shall be good and valid in the law, as if they had received the Sacrament, subscribed the Declaration, taken the Oaths, and subscribed the Association as aforesaid within the times limited and appointed by the said Acts, and no suit or prosecution shall be had against them or any of them for or by reason of such their omission or omissions, and all suits and prosecutions already had against them or any of them, for or by reason of such their omission or omissions, shall cease and determine, anything in the said Acts or either of them, or in any other Act or Acts of Parliament, relating to such their qualifications, to the contrary notwithstanding.

§ ii. Provided always, and it is hereby declared and enacted by the authority aforesaid, That nothing in this Act contained shall be construed, expounded or taken to restore any person or persons whatsoever to any office, trust or employment, who, by reason of their not qualifying themselves as by the said laws they ought to have done, have been removed from such office, trust or employment. *Parchment Collection.* [Brought from the Commons this day. Read 1 and rejected on 20 April. L. J., XVI. 267, 269.]

1267. April 20. Aire and Calder Navigation Bill.—Commons' Engrossment of an Act for making navigable the rivers Ayr and Calder, in the County of Yorke.

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Engrossed Bill above.

Act of 1698 (10 W. III. c. 25 Fol. Ed.).

Clause 1. .

Sect. 1. . .

Whereas the making of the rivers Aire and Calder up to Leeds and Wakefield, in the West Riding of the County of York, navigable, portable, or passable for barges, boats and other vessels, will not only . . .

. . . situate, lying and being near the said rivers . . .

. . . that Master William Milner, present Mayor of Leeds, Master William Rooke, Master Joshua Ibbetson, Master William Gawer, Master Thomas Kitchingman, Master Henry Iveson, Master John Dodgson, Master Caleb Askwith and Master John Rontree, Aldermen of the Corporation of Leeds . . .

. . . Master Theophilus Shelton, Master Joseph Watkinson, Master John Smith, Master Abraham Beavers and Master Richard Ellis, in and nigh the town of Wakefield . . .

. . . seals of eleven or more of them . . .

. . . and servants] are hereby empowered . . .

. . . to make navigable and passable . . .

. . . rivers Aire and Calder up to the towns of Leeds and Wakefield aforesaid, and for that purpose . . .

. . . the said rivers Aire and Calder, and to dig or cut the banks of the same, and to make new or larger cuts . . .

. . . lands or grounds thereto adjoining or lying contiguous, as they shall think fit . . .

. . . said undertaking, being the ground . . .

. . . Majesty, his heirs or successors . . .

. . . to the said rivers, looks . . .

1. 1. Whereas the making and keeping of the rivers Aire and Calder in the County of York navigable and passable with barges, boats, lighters and other vessels from a place called Weeland, situate upon the River Aire, up to the towns of Leeds and Wakefield, in the West Riding of the said County of York, will not only . . .

1. 5. . . situate near the said rivers . . .

1. 8. . . that Caleb Askwith, present Mayor of Leeds, William Rooke, Joshua Ibbetson, Thomas Kitchingman, Henry Iveson, John Dodgson, William Milner, John Rontree, Thomas Lazenby, Gentⁿ, Aldermen of the Corporation of Leeds . . .

1. 11. . . Theophilus Shelton, Joseph Watkinson, John Smith, Abraham Beavers and Richard Ellis, Gentlemen, in and nigh the said town of Wakefield . . .

1. 13. . . seals of nine or more of them . . .

1. 14. . . and servants shall be and are hereby impowered . . .

1. 15. . . to make navigable, portable and passable . . .

1. 16. . . rivers of Aire and Calder from Weeland aforesaid up to the said towns of Leeds and Wakefield, and for that purpose . . .

1. 17. . . the said rivers of Aire and Calder or either of them, and to dig or cut the banks of the same, and likewise to cleanse, scour, open, or cut and dig the banks of any other stream, brook, ditch, or watereourse that shall to them seem convenient for the better making the said rivers or either of them navigable, portable or passable for boats, barges, lighters and other vessels, and to make new or larger cuts . . .

1. 22. . . lands or grounds adjoining or lying contiguous to the said rivers, or either of them, as they shall think fit . . .

1. 23. . . said undertaking, as also for the bringing in any other stream, brook, or watereourse into the said rivers or either of them, being the ground . . .

1. 25. . . Majesty, his heirs and successors . . .

1. 28. . . to the said rivers, or either of them, looks . . .

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. . . the said Undertakers, with the consent and approbation of the Commissioners acting by virtue of this Act or any seven of them, signified by writing under their hands and seals, shall think fit . . .

. . . upon the said rivers as may . . .

. . . the said rivers, the said Undertakers, their heirs or assigns.

. . . Proprietors of the said wears . . .

Clause 2.

. . . Kingdom of Ireland, the Right Honourable Thomas, Lord Raby, the Right Honourable Thomas, Lord Fairfax, of the Kingdom of Scotland, Henry Fairfax, the Honourable Sidney Wortley Montague, Esquire, Sir John Armitage, Sir John Kay, Sir John Bland, Sir Godfrey Copley, Sir William Ramsden, Sir John Dalston, Sir Rowland Winn, Sir George Tempest, Sir John Wentworth, Sir Francis Burdett, Baronets,* Sir Gervase Cutler, Sir William Lowther, Knights, Arthur Ingram, William Ingram, William Lowther, Robert Byerley, Christopher Stockdale, Christopher Tankred, Henry Hitch, Walter Calverley, Thomas Fawkes, John Rookes, Francis Lindley, John Savile, Arthur Kay, Robert Moncton, Francis Nevile, William Wentworth, Thomas Horton, William Horton, Richard Beaumont, Brian Thornhill, Simon Sterne, John Towneley, John Farrer, John Bright, Richard Nettleton, John Wentworth, William Wombell, Godfrey Bosville, Thomas Edmunds, Junior, William Ellis, Senior, William Ellis, Junior, James Greenwood, John Ramsden, Esquires, Godfrey Copley, Richard Washington, Richard Ashton, Englebert Leeds, John Gill, Esquires, Cyril Arthington, John Stanhop of Horsforth, Thomas Kirke, John Stanhop of Ecclesall, Robert Farrand, Esquires, and all the Justices of the Peace for the time being for the West Riding of the County of York, Henry Greenwood, Robert Hitch, John Dineley, Doctor Richardson, Godfrey Lawson, Benjamin Wade, Thomas Dodson and Edmund Watson, Gentlemen, shall be and are hereby constituted . . .

l. 29 . . . the said Undertakers, their heirs or assigns, shall think fit . . .

l. 37. . . upon the said rivers, or either of them, as may . . .

l. 40 . . . the said rivers, or either of them, the said Undertakers, their heirs and assigns.

l. 45 . . . Proprietors of such wears . . .

Section 2.

l. 4. . . Kingdom of Ireland, the Right Honourable Thomas, Lord Fairfax, of the Kingdom of Scotland, the Right Honourable Sir Henry Goodrick, Knight and Baronet, one of His Majesty's Most Honourable Privy Council, the Right Honourable Peregrine Bertie, Esquire, His Majesty's Vice-Chamberlain, the Honourable Philip Bertie and Albemarle Bertie, younger sons of the Earl of Lindsey, the Honourable Sidney Wortley Montague, Esquire, the Honourable Henry Boyle, Esquire, the Honourable Henry Fairfax, Esquire, Sir John Armitage, Sir John Kay, Sir John Bland, Sir Bryan Stapleton, Sir George Cooke, Sir Godfrey Copley, Sir Willoughby Hickman, Sir Thomas Yarbrough, Sir George Tempest, Sir Rowland Winn, Sir William Ramsden, Sir John Wentworth, Sir Francis Burdett, Sir John Thorold, Sir William Robinson, Sir John Bolles, Baronets, Sir Gervase Cutler, Sir Edward Aiscough, Sir Abstrupus Danby, Sir William Lowther, Knights, the Honourable Charles Dimock, Arthur Ingram, Charles Osborne, William Wentworth, William Lowther, Robert Moncton, Robert Byerley, Richard Beaumont of Whitley, Francis Nevile, Walter Calverley, Bryan Thornhill, Densill Onslow, Englebert Leeds, William Wombwell, John Bright, John Savill, Senior, John Savile, Junior, William Ellis, Senior, William Ellis, Junior, Henry Hitch, Francis Nevile, Junior, John Ramsden, John Auby, Robert Franke, Robert Lowther of Aekworth, Godfrey Copley, Nicholas Fenny, William Horton, John Ferrars, Christopher Adams, Thomas Thornhill, Thomas Fawkes, Senior, Richard Ashton, Vincent Grantham, George Davenport, John Stanhop of Melwood, William Marwood, George Whitecote, John Metcalfe, Jonathan Jennings, Ambrose Pudsey, Christopher Stockdale, John Ayslabey, Tobias Harvey, Edward Mondy, and John Booth, Esquires, John Dineley, Robert Hitch, Godfrey Lawson, Richard Richardson,

* Half a line is here erased.

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. . . they or any seven or more of them

. . . the said Undertakers and the owners . . .

. . . tenements, hereditaments, wears . . .

. . . for making the said rivers navigable, or who may or shall . . .

. . . and to settle what share and proportion. . . .

. . . or any seven or more of them . . .

. . . impanel and return a Jury before the said Commissioners or any seven or more of them, to which Jury . . .

. . .

. . . said Undertakers are to have . . .

. . . damages and recompence . . .

. . . lands or tenements, or any part thereof . . .

. . . or any seven or more of them . . .

. . . administrators and assigns . . .

. . . lands or tenements or anything . . .

. . . as others, which orders, sentence and decree . . .

. . . or any seven or more of them . . .

. . . of the said Riding, all which . . .

. . . said Undertakers and their workmen . . .

. . . the said river navigable . . .

Robert Long of Boston, and William Long of Barton, Gentlemen, shall be and are hereby constituted. . . .

l. 22. . . . they or any seven of them

l. 23. . . . the said Undertakers, their heirs and assigns, and the owners

l. 24. . . . tenements and hereditaments, wears . . .

l. 25. . . . for making the said rivers or either of them navigable, or for the bringing in any other stream, brook, or watercourse into the same, or who may or shall . . .

l. 28. . . . and to settle and proportion what share and proportion . . .

l. 33. . . . or any seven of them . . .

l. 34. . . . impanel and return before the said Commissioners or any seven of them a Jury of able and sufficient men, qualified according to the laws and statutes of this realm, to be returned for trials of issues joined in His Majesty's Courts at Westminster, upon pain to forfeit for every person being returned in any such panel that shall not be qualified as aforesaid the sum of five pounds to His Majesty, his heirs and successors, and shall likewise return in issues upon every person so impanelled and returned upon any such warrant at the least twenty shillings, which shall be duly estreated and levied, to which Jury . . .

l. 41. . . . said Undertakers, their heirs or assigns, are to have . . .

l. 44. . . . damages and recompences . . .

l. 45. lands or tenements, wears or mills, or any part thereof . . .

l. 52. . . . or any seven of them . . .

l. 58. . . . administrators or assigns . . .

l. 58. . . . lands or tenements, wears or mills, or anything . . .

l. 60. . . . as others, and their respective heirs, executors, and administrators, and all claiming by, from, or under him, her, or them or any of them, which orders, sentence and decrees . . .

l. 62. . . . or any seven of them . . .

l. 66. . . . of the said Riding, transcripts whereof shall be delivered to the Clerk of the Peace for the time being of the said town and borough of Leeds, to be by him kept upon record amongst the records of the Sessions of the Peace for the said town and borough, all which . . .

l. 74. . . . said Undertakers, their heirs and assigns, and their workmen . . .

l. 75. . . . the said rivers or either of them navigable . . .

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. . . against the heirs, executors,
administrators and assigns of any of
the said owners or occupiers, as if the
same . . .

. . . sold by deed of feoffment
bargain and sale . . .

Clause 3.

. . . Commissioners or any fifteen
or more of them . . .

. . . to be recorded by the
Register . . .

Clause 4.

. . . said Undertakers or their
assigns . . .

. . . for the said Undertakers and
every of them, their and of every of
their heirs . . .

. . . or commodities whatsoever,
imported or to be exported, the rates and
freights hereafter mentioned, videlicet
. . .

. . . cloth and other goods, wares
and merchandizes imported or to be
exported to or from the said towns of
Leeds and Wakefield from the first day
of May.

. . . for every lesser weight, and
for all other goods, wares, commodities
and merchandizes not imported or to
be exported, that shall be carried or
conveyed to or from the said towns of
Leeds or Wakefield, or any other
township or place up or down the said
rivers, such rates and prizes as the said
Commissioners or any seven of them
shall set and appoint, which rates and
prizes the said Commissioners or any
seven of them are hereby authorized
and empowered to set and appoint, and
shall give public notice in writing to the
Mayor or other head officer in every
market town within the West Riding of
the County of York of the rates and
prizes so set and appointed, and in case
of refusal . . .

Clause 5.

. . . lighters and vessels . . .

. . . by strength of men . . .

. . . near the said river . . .

1. 78 . . . against the said owners
or occupiers, their heirs, executors, ad-
ministrators, or assigns, as if the same
. . .

1. 79. . . sold by deed of feoffment
bargain and sale . . .

Section 3.

1. 2. . . Commissioners or any
eleven of them . . .

1. 3. . . to be recorded by the
clerk . . .

Section 4.

1. 2. . . said Undertakers, their
heirs or assigns . . .

1. 4. . . for the said Undertakers,
their heirs . . .

1. 7. . . or commodities what-
soever, that shall be carried or conveyed
up or down the said rivers or either of
them, the rates and tolls hereafter
mentioned, and at such place or places
adjoining to the said rivers or either of
them as the said Undertakers, their heirs
or assigns shall think fit, videlicet . . .

1. 10. . . cloth or other goods,
wares, commodities, or merchandizes,
that shall be carried or conveyed in
any boat, barge, or vessel up the said
rivers or either of them from Weeland
aforesaid to the towns of Leeds and
Wakefield or either of them, or down
the said rivers or either of them from
either of the said towns of Leeds and
Wakefield to Weeland aforesaid from
the first day of May.

1. 15. . . for any greater or
lesser weight or for a less distance of
place to or from which any goods,
wares or merchandizes shall be carried
or conveyed in any boat, barge, or
vessel upon part of the said rivers only
or either of them between Leeds or
Wakefield and Weeland aforesaid and
in case of refusal . . .

Section 5.

1. 1. . . lighters or other vessels.

1. 2. . . by the strength of men.

1. 5. . . near the said rivers.

Clause 6.

. . . And for the better preventing . . .
. . . but his full costs of suit.

Clause 7.

. . . cleansing the said rivers . . .
. . . nevertheless that the Undertakers shall be at the sole charge from time to time to cleanse, scour and remove all obstructions.

Clause 8.

Be it further enacted . . .
. . . prosecuted by (*sic*) any person . . .
. . . persons so sued in any of his Majesty's Courts at Westminster or elsewhere, shall and may plead . . .
. . . pass against him, then in any . . .
. . . shall recover his or their full costs . . .
. . . shall have the like remedy as in any other case where costs by law are given or awarded to Defendants.

Clause 9.

. . . Commissioners or any seven or more of them . . .
. . . as the owners or occupiers . . .
. . . by reason of making . . .

Clause 10.

Provided also, and it is hereby further enacted, that if . . .
. . . their heirs and assigns . . .
. . . powers by this Act given, by making, establishing, or raising . . .
. . . their heirs and assigns, or any of them, shall at their costs and charges cause the banks . . .
. . . Commissioners or any seven or more of them shall think fit and appoint, so that the new banks . . .
. . . ancient and usual height, anything herein contained . . .

Section 6.

1. 1. . . . And for the preventing . . .
1. 9. . . . but full costs of suit.

Section 7.

1. 2. . . . cleansing of the said rivers . . .
1. 9. nevertheless the said Undertakers, their heirs and assigns are to be at the sole charge of cleansing, opening and seouring of the said rivers.

Section 8.

1. 1. And be it further enacted . . .
1. 2. . . . prosecuted against any person . . .
1. 3. . . . persons so sued in any Court whatsoever, shall and may plead . . .
1. 6. . . . pass against him, or judgment be given against him upon a demurrer, then in any . . .
1. 7. . . . shall recover full costs . . .
1. 8. . . . shall have the like remedy.*

Section 9.

1. 3. Commissioners or any seven of them . . .
1. 9. . . . as the owner or occupiers . . .
1. 9. . . . by reason of the making . . .

Section 10.

1. 1. And be it further enacted by the authority aforesaid, that if . . .
1. 1. . . . their heirs or assigns . . .
1. 2. . . . powers by this Act given, or any of them, by making or raising . . .
1. 5. . . . their heirs or assigns, at their own proper costs and charges shall cause the banks . . .
1. 7. . . . Commissioners or any seven of them shall think fit and appoint (notice in writing being first given of their meeting for that purpose at least twenty days before to every party concerned in such manner and form as is above directed and appointed) so that the new banks . . .
1. 11. . . . ancient and usual height, and also shall from time to time maintain and repair the said banks as often as occasion shall require, anything herein contained . . .

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* The words contained in the Engrossed Bill should evidently have been added here. The omission of them in the Act seems to be a mistake.

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Clause 11. Provided always, and be it enacted by the authority aforesaid, that this Act or anything herein contained shall not extend or be construed to indemnify, exonerate, or discharge the proprietor of Castleford Mill, or any other person or persons whatsoever, against any action, suit, prosecution, remedy, or demand whatsoever, either in law or equity, which the owners or possessors or any late owners or possessors of the lands or possessions lying near to the said rivers or any of them have or ought to have for or in respect of any loss, trespass, or damage, which they or any of them have sustained by raising any dam below the meeting of the said rivers, whereby the course of the waters have (*sic*) been raised above its ancient and usual height; and, if the Undertakers for making the said rivers Aire and Calder navigable shall find it necessary to continue the said dam or dams above such ancient and usual height, that then such satisfaction be made to the owners and possessors of such lands and possessions as the said Commissioners or any seven of them shall judge reasonable, anything in this Act contained to the contrary notwithstanding.

Clause 12.

. . . contained shall be construed, adjudged, or taken any ways to abridge or prejudice the Corporation of Pontefract in the said County of York in claiming, collecting and receiving the ancient tolls due or that shall become due to the said Corporation for the passage of boats and other vessels upon the said river Aire, and in their enjoying their ancient immunities and privileges upon the said river, but that it shall and may be lawful to and for the Mayor, Aldermen and Burgesses of Pontefract for the time being, and their successors, to demand and receive by their water-bailiffs, to be appointed yearly by the Mayor of the said Corporation for the time being, the ancient toll . . .

. . . having a cock-boat with it, that comes upon any part . . .

. . . and the ancient toll of two pence . . .

. . . not having a cock-boat, coming upon any part . . .

. . . Knottingley Mills as aforesaid, in the same manner and form . . .

Section 14.

1. 1. . . . contained shall abridge or prejudice the Mayor, Aldermen and Burgesses of Pontefract for the time being and their successors in claiming, demanding, or receiving an ancient toll of four pence . . .

1. 3. . . . having a cock-boat with it, passing upon any part . . .

1. 4. . . . and an ancient toll of two pence . . .

1. 5. . . . not having a cock-boat with it, passing upon any part . . .

1. 5. . . . Mills aforesaid, but that it shall and may be lawful to and for the said Mayor, Aldermen and Burgesses of Pontefract for the time being, and their successors, to claim, demand, or receive the said ancient tolls in the same manner and form . . .

Clause 13. Provided always, and it is hereby enacted and declared, That the said Commissioners or any seven or more of them shall have full power and authority and are hereby authorized and empowered to abridge or moderate the rates and prices by this present Act limited and appointed for carriage of goods, wares and commodities imported or to be exported to or from the said towns of Leeds and Wakefield, as they shall find just cause, regard being had to the charges and expenses which the said Undertakers, their heirs and assigns, shall have been at in making the said rivers navigable and passable for boats, barges and other vessels, and also to the necessary charges of repairing the locks, wears, winches, floodgates and other engines that are or shall be erected upon the said rivers, and in maintaining and keeping the said rivers

navigable and passable for boats, barges, lighters and other vessels. *Parchment Collection*. [Brought from the Commons this day. L. J., XVI. 268. On 18 May Counsel and witnesses were heard for the Bill and for the petitioners against it, and the Master and Brethren of the Trinity House were ordered to attend and say whether the Bill may be prejudicial to navigation, particularly that of the Ouse. (See No. 1272.) On 1 June a Report from the Trinity House was read and the Brethren heard. They were ordered to view the rivers and report as to the effect of the Bill. MS. Min. L. J., XV. 290, 307. No further proceedings.]

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1268. April 20. *Sheppard v. Doeminiue and others*.—Petition and Appeal of Mathew Mead, Gent., and Dormer Sheppard, Thomas Sheppard, James Ball, Francis Stratford, and John Coltman, merchants. The *Union* frigate of 240 tons, of which Petitioners were owners, being bound for London from Gallipoli and Messina, with a cargo of oils worth 10,000*l.* belonging to Petitioners, and silk worth 16,000*l.* for the account of other persons, was chased on 26 June 1693 by a French man-of-war into Malaga. Part of the Toulon squadron shortly after attempting to enter the port, George Langhorne, the Master, and Mr. Newland, Petitioners' Agent there, resolved to land what they could and sink the ship. After having landed all the silk first, as being the most valuable, and part of the oils, they desisted, on finding the French ships sail away. But the whole French fleet unexpectedly coming before the place afterwards and attacking it, carried off the ship, before it could be sunk or all the cargo unloaded, whereby Petitioners lost the ship, which was worth 2,000*l.*, and oils to the value of nearly 10,000*l.* more. The owners of the silk refusing to contribute or come to an average for what was saved, Petitioners brought a Bill in Chancery against them. Petitioners' Bill was dismissed on 20 May 1696 by the Lord Chancellor. Appeal from this dismissal, and pray that Respondents may be ordered to answer. *Signed* by Appellants; *Countersigned* B. Shower, Edw. Northey. L. J., XVI. 269. [At the Hearing on 3 June *Sir Bartholomew Shore* and *Mr. Northey* were heard for the Appellants and the *Attorney-General* and *Sir Thomas Powys* for Respondents. MS. Min. The Appeal was dismissed. L. J., XVI. 309.]

Annexed:—

(a) 7 May. Answer of Joseph Wright, Edward Doughty, Robert Doughty, Edward Colston, Edward Carlton, Robert Foot, Francis Gosfright, John Morgan, Andrew Hopegood, senr., Francis Hopegood, Sir James Houblon, John Wright, William Wright, Edward Stringer, Jocelyne Roberts, Sir Richard Blackham, Bart., Roger Drake, Charles Thorold, James Porteen, George Ford, Charles Ball, John Cater, Francis Cater and John Brand. Respondents have no knowledge that Appellants were or are owners of the *Union*. The ship was laden at Messina in May 1693 with several bales of silk for the account and risk of Respondents, to be delivered to them in London by Captain George Langhorne, the Master. The silk was taken out at Malaga and put into Newland's warehouse at Malaga when the Toulon squadron of French men-of-war on 20 June appeared before the port. The fleet left without doing or attempting any damage, and about ten days afterwards returned and then seized the ship, with her lading, which consisted of oils, all of which might easily have been unladen in the interval. Pray that the Appeal may be dismissed with costs as vexatious. *Signed* by

(O. 1.)

O

1698. Respondents except Houlton and Porteen; *Countersigned* Sam. Dodd. *Endorsed* as brought in this day.
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- No. 1268. (b) 16 May. Answer of Paul Docminique and Margaret Sedgwick. Identical with preceding. *Signed* by Respondents; *Countersigned* Sam. Dodd. *Endorsed* as brought in this day.

1269. April 20. Lascelles' Estate Bill.—Draft of an Act for vesting the real estate late of Thomas Lascelles, Esquire, deceased, in trustees to be sold for the payment of his debts. [Read 1^a this day. L. J., XVI. 268. No further proceedings. A Bill almost identical with this one was passed in the following year. See No. 1384.]

1270. April 20. Rogers' Estate Act.—Amended Draft of an Act for vesting in Thomas Rogers, Gent., an absolute estate of inheritance in fee simple in the manor of West Court, mansion-house, messuages, lands and hereditaments in the County of Kent, and securing to John Higgons, Gent., Aliee, his wife and (for portions for) Irene, Margaret, Mary and Aliee Cæsar moneys in lieu of their claims thereunto. [Read 1^a this day; Royal Assent 5 July. L. J., XVI. 268, 344. 10 Will. III. c. 105 in Long Cal.]

1271. May 2. Pitt's Estate Act.—Draft of an Act to confirm a Conveyance made by George Pitt, Esquire, and others, of the manor of Tarrant Preston and other lands in the County of Dorset to John Pitt, Gent., and the heirs male of his body. [Read 1^a this day; Royal Assent 5 July. L. J., XVI. 270, 343. 10 Will. III. c. 90 in Long Cal.]

Annexed:—

- (a) 4 June. Consent of John Pitt to the passing of the Bill. *Dated* 17 May 1698. *Attested* by Nicholas Pitt and Marmaduke Crofts. [Read in Committee this day. Com. Book.]
- (b) 4 June. Similar Consent of George Pitt. *Dated* 17 May 1698. *Attested* by Nicholas Pitt and Charles Lee. [Read in Committee this day. Com. Book.]

1272. May 3. Aire and Calder Navigation Bill.—Petition of the Lord Mayor and Commonalty of the city of York. By the Act of 23 Hen. VIII. it is declared that the city of York had been much relieved and supported by the river Ouse and the water of Humber, which was the common and direct passage thither from Hull, by reason that many vessels had theretofore had their free passage thereupon, and that the obstruction thereof would tend to impoverish the city of York. Both before and since that Act several other powers, delegated to Petitioners by Royal Charter and immemorial prescription, have been continued, and not only many benefits have accrued to the city and counties adjoining by reason of such free passage, without which they could not and cannot tolerably subsist, but also navigation and the supply of seamen has been encouraged. Should either the river Aire or Calder be made navigable, the river Ouse will be so drained for want of tides and a free current, that no boats or vessels would be able to pass, thereby ruining Petitioners and making ineffectual the former Act. Pray to be heard against the Bill. L. J., XVI. 271. [Read this day and Ordered that Petitioners shall be heard. See Notes to No. 1267.]

Annexed:—

- (a) 3 May 1698. Petition of the Mayor, Aldermen and Inhabitants of Leeds. The towns of Leeds and Wakefield are the principal

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No. 1272.

markets for the northern cloth, and are situate upon the rivers Aire and Calder. The rivers have been viewed, and are capable of being made navigable to the said towns, which, if effected, would redound very much not only to their advantage, but to the great improvement of trade, and benefit the towns of Halifax, Ealand [Elland], Bradford, Keighley, Bursall [Birstal], Huddersfield, Bingley, Honley, Otley, Barnsley and Pennystone [Penistone], and all other towns concerned in the northern cloth trade, they being at present forced to carry their goods and merchandise some thirty and Petitioners above sixteen miles by land carriage, which is very chargeable, besides the damage that frequently happens to their cloth from the badness of the ways, which, although the county yearly expend considerable sums in repairing them, are frequently impassable in winter for ordinary country carts and carriages. Pray that the Bill may pass. *Signed* by William Milner, Mayor, and 332 others. *Endorsed* as read this day. L. J., XVI. 271.

(b) 10 May 1698. Petition of several Masters of ships and vessels and of the Mariners trading in the river Ouse. Petitioners have several vessels of good burthen, which are constantly employed in carrying great quantities of woollen manufactures, lead, butter, corn, rape-seed, tallow, and several other commodities, the products of this and the adjacent country, to Hull, London, Newcastle and several parts beyond the seas, from whence they bring all sorts of merchandise and sea-coals for supplying the city of York and the adjacent counties by the river Ouse, which in the late war furnished his Majesty's Navy with considerable numbers of seamen. Several of the Petitioners, being returned from the said service, will be ruined if the navigation of the river Ouse should be prejudiced, and, if the rivers of Aire and Calder be made navigable, not only will the trade of the city of York be greatly impaired, but also the tides in the river Ouse will be destroyed. Pray to be heard by Counsel against the Bill. *Signed* by John Potter and 90 others. *Endorsed* as read this day, and ordered to be heard on the 17th inst. L. J., XVI. 280.

(c) 11 May 1698. Petition of the Governor, Assistants and Company of Merchants Adventurers of the city of York. The Company is of ancient standing, confirmed by several charters, and yearly export great quantities of cloth, lead, corn, butter and other commodities of the kingdom, for Hamburg, Holland, Denmark, Sweden, and several places in the Baltic Seas and elsewhere, employing above 100 ships and vessels, and import again great quantities of flax, hemp, pitch, tar, iron, deals and other naval stores, to the great advantage of the nation, the breeding up of seamen, the encouragement of navigation, and the advantage of the city of York and adjacent country; which trade cannot be preserved if the tides in the river Ouse be lessened, as will happen if the Bill pass. Pray to be heard against the Bill. *Signed* by Gilbert Metcalfe and 117 others. *Endorsed* as read this day. L. J., XVI. 280.

(d) 13 May 1698. Petition of the Gentlemen, Freeholders and principal Inhabitants of the towns of Selby, Cawood, Wistow, Stillingfleet, Naburn, Acaster-Saylby [Selby], Acaster-Malbis, Bishopthorpe, Middlethorpe, and Foulforth. The said towns lie near the river Ouse, by which Petitioners export great quantities of corn and other goods and merchandise to several ports in

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England and beyond the seas, and receive back other commodities; and many ships are built there at very easy rates, having timber brought from the adjacent woods at little charge. If the Bill pass, the river Ouse will be drained of its water, to the destruction of Petitioners' trade. Pray to be heard against the Bill. *Signed* by Henry Allam and 133 others. *Endorsed* as read this day. L. J., XVI. 284.

- (e) 16 May 1698. Petition of the Wardens, Assistants and Freemen of the Company of Shearmen, within the borough of Kirkby Kendal, in the County of Westmorland. A considerable trade has been managed in the borough beyond memory of man in the manufacture of coarse woollen cloths, called Kendal cottons, to the support of large numbers of persons living therein, who would otherwise be reduced to beggary. The borough is 200 miles from London, whither most of the wares are sent, but the land carriage of the goods amounts to 28s. per pack, which charge is a great discouragement to the trade. The trade causes great quantities of dyeing stuffs to be brought from London. If the rivers Aire and Calder be made navigable, the said wares may not only be afforded at less prices, by saving at least 16s. per pack carriage, but also, by reason of such abatement, much larger quantities would be made, to the great profit of the inhabitants and the certain advancement of the price of wool and cattle in the parts adjacent. Pray that the Bill may pass. *Signed* by Nicholas Dawson and 47 others. *Endorsed* as read this day.
- (f) 16 May 1698. Petition of the Mayor and Burgesses of the town and county of Newcastle-upon-Tyne. The Bill will be injurious to trade and navigation and to the port of Newcastle-upon-Tyne. Pray to be heard against the Bill. *Endorsed* as read this day. L. J., XVI. 286.
- (g) 16 May 1698. Petition of the Wardens and Freemen of the Company of Weavers within the borough of Kirkby Kendal, in the County of Westmorland. A considerable trade has been managed in the borough beyond memory of man in the manufacture of cloths of linen and woollen, commonly called linsetts. Rest of Petition identical with (e). Pray that the Bill may pass. *Signed* by three Wardens, and 84 others. *Endorsed* as read this day.
- (h) 16 May 1698. Petition of the Mayor, Aldermen and Capital Burgesses of the borough of Kirkby Kendal, in the County of Westmorland. A considerable trade has been managed in the borough beyond memory of man in the manufacture of coarse woollen cloths called Kendal cottons and other cloths made of linen and woollen, commonly called linsetts, and also of making, tanning, and towing of leather in very great quantities. Rest of Petition identical with Annex (g) above. *Endorsed* as read this day. MS. Min.
- (i) 16 May 1698. Petition of several Masters and Mariners, Coal-Owners, Coal-Traders, Coal-Fitters and others, Inhabitants in and about the town of Sunderland by the Sea, in the County of Durham. The coal trade of Newcastle and Sunderland is the great nursery of seamen in England, from whence his Majesty's navy is supplied in time of war and the merchant-ships furnished in time of peace with able seamen. Petitioners furnish great quantities of coal and employ great numbers of ships yearly in carrying coal for the river Humber, which supplies a great part

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of Yorkshire and Lincolnshire with sea coal, which must now pay 5s. per chaldron to the King for five years. Should the Bill pass, great quantities of coal will be brought down by the rivers Aire and Calder for supplying the cities of York and Lincoln, and the towns of Beverley, Hull, Gainsborough, Stockwith, and all other places near the said rivers, which coals, not being liable to the said duty, will be sold so cheap that Petitioners' trade will be destroyed, and some 400 sail of ships will be laid aside. Pray to be heard against the Bill. *Signed* by Ralph Martin and 778 others. *Endorsed* as read this day. MS. Min.

- (j) 18 May 1698. Petition of the Merchants, Mariners and other Inhabitants of Whitby. Petitioners are informed that the towns of Leeds and Wakefield are endeavouring to procure an Act for making the rivers Aire and Calder navigable. The Act, if passed, may prove of very bad consequence not only to Whitby but to several other coasting towns which employ a great number of ships in carrying coals from Newcastle and Sunderland to supply all the districts on both sides the Humber up the rivers Ouse and Trent, to the great increase of seamen and encouragement of navigation. This employment will be wholly lost, since the coals will be sent in small boats. Pray that the Bill may not pass. *Signed* by Peregrine Lascelles and 28 others. *Endorsed* as read this day.
- (k) 18 May 1698. Petition of Merchants, Mariners and other Inhabitants of Hartlepool, praying that the Bill may not pass. Almost identical with Annex (j) above. *Signed* by Edmond Bell, Mayor, and 37 others. *Endorsed* as read this day.
- (l) 18 May 1698. Petition of Inhabitants of Wakefield, praying that the Bill may pass. Identical with Annex (a) above. *Signed* by Henry Pilkington and 141 others. *Endorsed* as read this day. MS. Min.
- (m) 18 May 1698. Petition of Clothiers and others, trading in the woollen manufacture in the town of Ratchdale [Rochdale], co. Lancaster, praying that the Bill may pass. Identical with Annex (a) above. *Signed* by James Holte and 158 others. *Endorsed* as read this day.
- (n) 18 May 1698. Petition of the Justices of the Peace, Grand Jury, and other Gentlemen assembled at the General Quarter Sessions of the Peace held at Pontefract on 3 May 1698, praying that the Bill may pass. Identical with Annex (a) above. *Signed* by William Lowther and 30 others. *Endorsed* as read this day.
- (o) 18 May 1698. Petition of Clothiers and others trading in the woollen manufacture in Halifax and Ealand [Elland], praying that the Bill may pass. Identical with Annex (a) above. *Signed* by Richard Farrer and 110 others. *Endorsed* as read this day. MS. Min.
- (p) 25 May 1698. Report of the Master, Wardens, and Assistants of the Trinity House touching the rivers Aire and Calder. In obedience to their Lordships' Order of the 18th inst. they have considered the Bill, so far as it may be prejudicial to navigation, and particularly that on the river Ouse, and are of opinion that the opening and widening of any of the rivers that have any communication with the Ouse, so as to let the tide further into the same, will deprive that part of the Ouse above the inlet of such rivers of so much water as they shall receive more than

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they did before, and consequently will be so far hurtful to the river Ouse, as its depth of water shall be lessened thereby. But if it be provided by the Bill, that the tide shall not be suffered to flow further than to Knottingley, or to what other place it now commonly doth, by causing thereat a sufficient stop to be made to the flood by dams and locks, or the like, it is conceived that the making the rivers Aire and Calder navigable will not be prejudicial to the navigation on the river Ouse or to navigation in general, but that the same will rather be encouraged and increased thereby. *Dated* Trinity House, 24 May 1698. *Signed* by Lucas, Master, Mathew Andrewes, John Jacob, John Hazelwood and John Clements, Wardens, and R. Haddock, (illegible,) Thos. Willshaw, Robt. Fisher, Ra. Sanderson, Sam. Atkinson, Henry Risbe, Hum. Ayles, B. Michel, James Conaway, and Wm. Cruft. MS. Min.

(q) 1 June 1698. Petition of Inhabitants of Tadcaster and several other towns adjoining upon the river Wharfe. The said river is navigable and traded to with vessels and boats to and from York, Kingston-upon-Hull and other places. Great quantities of merchandise are thus brought to Tadcaster and carried from thence by horses to Leeds, Skipton and several other places in the West Riding of York and elsewhere, and from thence cloth and other commodities are brought from Leeds at 12*d.* a horse pack, or only 4*s.* a truss, which pays only 4*s.* per ton to the town of Hull, and that from Tadcaster. Petitioners will undertake to carry goods to and from Leeds for 10*s.* per ton, winter and summer, by land carriage, whereby several hundreds of families are supported. The making the Aire and Calder navigable will prevent the tide flowing up the river Wharfe, the Aire being much nearer the sea, whereby Petitioners would not only be deprived of an advantage of the river, but likewise of their employing so many hundred horses as are daily made use of in land carriage. Pray to be heard against the Bill. *Signed* by John Greenfield, Vic., and 22 others. *Endorsed* as read this day. MS. Min.

(r) 1 June 1698. Petition of Cheesemongers in the City of London. Petitioners have a very great trade for butter, bacon, pork, cheese and other commodities from York, and are now building small vessels to be continually employed in the trade. The Bill, if passed, will so lessen the tide and take away the water flowing up to York, that Petitioners' trade will be destroyed and their vessels made useless. Pray to be heard against the Bill. *Signed* by John Ewer and 28 others. *Endorsed* as read this day. MS. Min.

(s) Undated. Petition of the Merchants, Mariners and other Inhabitants within the town of Stockton, in the County Palatine of Durham. Pray that the Bill may not pass. Almost identical with Annex (j) above. *Signed* by William Atkinson, Mayor, and 51 others.

1273. May 3. Juries (Return) Bill.—Commons' Engrossment of an Act for the more easy return of Juries at the Assizes and Sessions.

§ i. Whereas by an Act made in the seventh and eighth years of the reign of his present Majesty, intituled an Act for the ease of Jurors, it is amongst other things enacted, that all Constables, Tithingmen and Headboroughs of towns in each county, or their deputies, or some or one of them, shall yearly at the General Quarter Sessions of the Peace to be

holden for each county, riding or division, or any part thereof, in the week after the feast of St. Michael the Archangel, upon the first day of the said Sessions, or upon the first day that the said Sessions shall be held by adjournment at any other particular division or place, return and give a true list in writing of the names and places of abode of all persons within the respective places for which they serve, qualified to serve upon such juries, with their titles and additions, between the age of one and twenty and seventy years, to the Justices of the Peace in open Court, which said Justices, or any two of them at the said Sessions, in the respective counties, ridings or divisions, shall cause to be delivered a duplicate of the aforesaid returned lists by the Clerks of the Peace of every county or riding to the Sheriffs or their deputies on or before the first day of January next following, and cause the said lists to be fairly entered into a Book by the Clerk of the Peace, to be by him provided and kept for that purpose amongst the Records of the Sessions, and no Sheriff shall impanel or return any person or persons to try any of the issues joined in any of the said Courts, or to be or serve in any jury at the Assize or Sessions of Oyer and Terminer, Gaol delivery or Sessions of the Peace, that shall not be named or mentioned in the said list, and any Constable, Tithingman or Headborough failing at any time to make the return aforesaid shall forfeit and incur the penalty of five pounds to his Majesty and successors, to be recovered by bill, plaint or information. And whereas by one other Act made in the eighth and ninth years of his present Majesty's reign, intituled an Act to Enable the Return of Juries as Formerly until the first day of November one thousand, six hundred, ninety seven, it is enacted that all Justices of the Peace at their respective Sessions of the Peace to be holden next before the Feast of Saint Michael the Archangel yearly and every year do issue forth precepts to the respective Constables within their respective counties or divisions, thereby requiring them and every of them to make such returns of persons to serve upon juries as by the said former Act is directed: And whereas it is found by experience that the other public business of the General Quarter Sessions does not allow sufficient time for examining the said lists in such manner as is necessary; Be it therefore enacted &c. that the Justices of the Peace for each county, riding or division shall yearly and every year at the General Quarter Sessions of the Peace to be holden for their respective counties, ridings or divisions next before the Feast of Saint Michael the Archangel, by their Order in Court direct the several Chief Constables within their said respective counties, ridings or divisions to issue forth their precepts to the several Petty Constables, Headboroughs or Tithingmen within their respective hundreds or wapentakes, requiring them to return such lists as by the said former Acts is required to two or more Justices of the Peace at such convenient times and places as the Justices of the Peace at the aforesaid General Quarter Sessions shall appoint for receiving the same, any time before the first day of September in every year; and the said Justices of the Peace, to whom such lists shall be returned at such times and places as aforesaid, shall and hereby have power to examine the same, and to make such alteration and amendments in any of them as to them shall seem just and reasonable, and after such examination shall transmit the same to the Justices of the Peace at the next General Quarter Sessions to be holden for that county, riding or division, and a true duplicate of the said lists shall be from thence delivered by the Clerk of the Peace to the Sheriff or his deputy for such county, riding or division in such manner, and to such intents and purposes as the lists returnable by the former Act were appointed, and the said lists shall be fairly entered into a Book by the

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Clerk of the Peace for such county, riding or division, and kept in such manner as by the said former Act is required.

§ ii. Provided always, that if any person shall think himself aggrieved either by the return of any of the Petty Constables, Headboroughs or Tithingmen, or by any amendment or alteration made in the same by the Justices of the Peace as aforesaid, he may appeal to the Justices of the Peace at the next General Quarter Sessions to be holden for that county, riding or division, who shall have power, upon such appeal, to alter any such return and to relieve the party aggrieved, as they shall see cause. And, to the end that all persons thinking themselves aggrieved as aforesaid may have an opportunity of appealing to the said Quarter Sessions, the several Petty Constables, Headboroughs and Tithingmen are hereby required to give notice thereof to every person returned by them in such lists six days at least before the next General Quarter Sessions; and the Justices of the Peace making such amendments or alterations as aforesaid are hereby required forthwith to acquaint the respective Petty Constables, Headboroughs and Tithingmen with the same, to the end that they may give notice thereof to the parties concerned.

§ iii. And be it further enacted by the authority aforesaid, That if any Clerk of the Peace shall neglect to do his duty, as is by this Act required, he shall forfeit for every such offence ten pounds, which forfeiture may be recovered by any person or persons suing for the same in any of his Majesty's Courts of Record by bill, plaint, information or otherwise, wherein no essoign, protection or privilege, or wager of law, or more than one imparlance shall be allowed; And if any Constable, Headborough or Tithingman shall neglect or refuse to do his duty, as is by this Act required, the Justices of the Peace at the next General Quarter Sessions shall have, and hereby have, power to inflict such penalty by fine for such neglect or refusal as they shall think reasonable, so as the fine exceed not the sum of five pounds, which fine shall be to the use of his Majesty, his heirs and successors.

§ iv. Provided always, and be it further enacted by the authority aforesaid, That every Petty Constable, Headborough or Tithingman, that shall make such returns and deliver such lists to the Justices of the Peace at such times and places as shall be appointed for receiving the same, pursuant to this Act, shall be and is hereby discharged from making such returns to the General Quarter Sessions of the Peace as by the first herein-recited Act is required, and is hereby acquitted and cleared from any penalties incurred by such as fail to make the same; And every Constable, Headborough or Tithingman, that shall not deliver such lists to the Justices of the Peace at such times and places as shall be appointed as aforesaid shall be and is hereby obliged to return the same to the next General Quarter Sessions, in such manner and under such penalties as they should or ought to have done, if this Act had never been made.

§ v. And whereas divers persons, duly qualified to serve on juries as aforesaid, do not inhabit in the same townships or places where their respective estates do lie, by reason whereof the names of several persons have been omitted, which ought to have been returned in the lists before-mentioned, Be it therefore enacted by the authority aforesaid, That the names of all such persons who are qualified to serve on juries as aforesaid, and do not inhabit in the same townships or places where their respective estates do lie, shall from time to time be returned only by the Constables, Tithingmen and Headboroughs of the towns or places where they do respectively inhabit. *Parchment Collection*. [Brought from the Commons this day. L. J., XVI. 271. The Bill was read 2^a

and committed, but no further proceedings took place, though the Commons sent a message to remind the Lords of it. *Ib.* 333.]

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Annexed :—

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(a) Breviate of the Bill.

1274. May 3. Russian 'Trade Bill.—Commons' Engrossment of an Act for the better encouraging and improving the trade to Russia.

§i. Whereas by Letters Patents, dated at Westminster the sixth day of February in the first and second years of the reign of King Philip and Queen Mary, the said King and Queen did thereby incorporate divers persons in the said Letters Patents named and described by the name of Merchants Adventurers for the discovery of lands, territories, isles and seigniories unknown, and not by seas and navigations before the said late adventure or enterprise commonly frequented, with power to choose one Governor four Councils [Consuls] and twenty-four Assistants yearly, and to have and enjoy the sole trade to all the main lands, isles, ports and rivers of the Emperor of Russia, and to all and singular other lands, dominions, territories, ports, creeks and arms of the sea of all and every other Emperor, King, Prince and Governor, whatsoever he or they be, before the adventure in the said Letters Patents mentioned not known or by English Merchants and subjects by the seas not commonly frequented, and to every part and parcel thereof lying northward, north-eastward, and north-westward, with a prohibition to all others not free of the said fellowship, unless by their consent and agreement, to trade to the places aforesaid, on pain of forfeiting the ship and goods so trading or traded with, as by the said Letters Patents and the liberties, powers and privileges thereby granted were, by an Act of Parliament made in the eighth year of the reign of Queen Elizabeth, ratified and confirmed to the said fellowship and their successors; To the end that the persons trading to the said places might be under good order and regulation, and not trade in a disorderly manner, to the detriment of the commonwealth, and it was thereby enacted, that the said fellowship created by the said Letters Patents should from the making of the said Act be incorporated and called only by the name of the Fellowship of English Merchants for the discovery of new trades, and should have and enjoy, together with the liberties and privileges, jurisdictions, franchises, powers, authorities and things in the said Letters Patents mentioned or contained, the further liberty, power and authority to trade and traffic into the countries of Armenia Major and Minor, and other the countries and places mentioned in the said Act of Parliament, and every part of them, with a prohibition to all others not free of the said Fellowship, and without their consent and agreement to trade thither or to any other of the places in the said Letters Patents mentioned, on pain of the forfeiture of the ship and goods so trading or traded with, one half to the Queen's Majesty, her heirs and successors, and the other half to the said Fellowship and their successors (as by the said Act of Parliament, amongst other things therein contained, more at large may appear); And forasmuch as the said Fellowship of English merchants for the discovery of new trades have not, since the said Act of Parliament, discovered any new place to trade into, but on the contrary do restrain the said trade already discovered, by refusing to admit any English merchants who have not served an apprenticeship to one of the said Fellowship on any terms, or for any fine or allowance whatsoever, to trade to Archangel, being the only port in the dominions of the Emperor of Russia to which the said Fellowship now drive any trade; And whereas there are now but very few persons of the said Fellowship who deal in the said trade, whereby the said

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trade is in danger of being utterly lost to this nation, and to fall into the hands of other nations, who endeavour by all artifices to supplant the subjects of this Kingdom therein ; And for that it will be advantageous to the trade of this Kingdom that all merchants, natural born subjects of England, be admitted into the said Fellowship of English Merchants for discovery of new trades upon reasonable terms ; Therefore, as well for enlarging and improving the said trade to the utmost extent it is capable of, and for the consumption and expense of the woollen manufacture, the increase of the shipping, and encouraging the navigation of this Kingdom, Be it enacted, &c., that from and after the tenth day of May which shall be in the year of our Lord one thousand six hundred, ninety and eight, any person whatsoever, being a natural born subject of this realm of England, who shall desire to be admitted into the said Fellowship of Merchants of England for discovery of new trades, on request in that behalf to be made to the Governor, Consuls or Assistants of the said Fellowship for the time being, or any five or more of them, shall be admitted into the said Fellowship and have and enjoy the same privileges and advantages as amply and fully to all intents and purposes as any other member of the said Fellowship may have and enjoy by virtue of the said Letters Patents and Act of Parliament or either of them, such Merchant paying for his admittance only the sum of forty shillings.

§ ii. And be it further enacted by the authority aforesaid, That from and after the said tenth day of May no more than forty shillings shall be demanded, taken, or received by the said Fellowship for the admission of any person into the said Fellowship, anything in the said Letters Patents or Act of Parliament, or any by-law or order of the said Fellowship, or any law, usage, or custom whatsoever to the contrary notwithstanding.

§ iii. And be it further enacted by the authority aforesaid, That where any such person or persons residing in any outport or any other place within this realm, dominion of Wales, or town of Berwick-upon-Tweed, shall make request to be admitted into the said Fellowship as aforesaid, by his agent or deputy making a tender of forty shillings for his admission, the said Governor, Consuls and Assistants shall under the common seal of the said Fellowship, within twenty days after such request, appoint one or more person or persons to admit such person or persons into the freedom of the said Fellowship, and to administer to him and them the oath to be taken by the freemen of the said Fellowship, which oath they are hereby empowered to administer ; which admission and administration of the said oath shall be as good and effectual as if the same were actually done by the said Governor, Consuls and Assistants.

§ iv. Provided always, and be it enacted by the authority aforesaid, That if any person or persons, being natural born subjects of this Kingdom, and being willing to be admitted into the Society aforesaid upon the terms aforesaid, and shall after the said tenth day of May tender forty shillings for his admission, according to the true intent and meaning of this Act, in the presence of two or more credible witnesses, and shall be refused or delayed admission longer than two months after such tender, it shall and may be lawful for such person or persons to trade to and from all parts within the limits of the charter of the Company aforesaid, without any hindrance or molestation, and shall be deemed and taken to be free of the said Company to all intents and purposes, any law, statute, usage or custom to the contrary in any wise notwithstanding. *Parchment Collection.* [Brought from the Commons this day. L. J., XVI. 271. On 24 May Counsel were heard for the

Bill and for the Petitioners. On 7 June *Mr. Tench* heard (for the merchants). Several of us attended the Russia Company and they told us the usual fine was 50*l*. We are above seventy subscribers and the subscriptions lie open for all his Majesty's subjects. The contract is made for seven years. We paid the Czar 12,000*l*. for the contract. *Mr. Serjt. Wright* and *Sir Thomas Powys* heard for the Russia Company. *Mr. Stiles* acquainted the House with the discourse he had with the Czar and his ambassador. A proposal from the Company (Annex (c) next number) was offered, signed by the Governor; it was read at the Table by the Clerk. Agreed to call in the Company and Merchants and tell them the House conceives the offer from the Company to be reasonable. MS. Min.

On 16 June the merchants were asked what they had to say to the proposals of the Company. They say they think those proposals unreasonable. We know no reason why this good trade for the Kingdom should be interrupted. This is a new trade and hazardous, and we hope we shall have all the encouragement that may be. *Sir Benjamin Ayloffe* heard for the Russia Company. We leave all to your Lordships' judgment for the good of the tobacco undertakers as we had proposed. *Proposed* to read the Bill a second time. Lord La Warr proposed from the Company that the one per cent. be made half per cent. After debate the question was put whether the proposition as amended was a reasonable one? Resolved in the affirmative; Contents 24, Not Contents 13: Tellers, L. La Warr and L. Fitzwalter. The decision of the House was communicated to the Company and Merchants as in L. J., XVI. 319. On 23 June the Russia Company and Merchants were called in and asked by the Speaker what had been done since the [16th]. The Company delivered a paper (Annex (e) next number) of what they had done, which was read. The Merchants were heard and delivered a paper (Annex (f) next number) as reasons* [for their entering into the contract with the Czar and] why they could not comply with the Russia Company. The question whether the Bill should be rejected was put: the previous question was then put and negatived by 19 to 18 as in L. J., XVI. 327. MS. Min.]

1275. May 3. Russia Bill. Draft extracts from Lords' Journals of proceedings on the Bill, beginning this day and ending 23 June. L. J., XVI. 271, 281, 284, 297, 306, 311, 312, 318, 319, 327. *In extenso*.

Annexed:—

(a) 14 May 1698. Petition of the Company of English merchants for discovery of new trades, commonly called the Russia Company. Pray to be heard against the Bill, the same being highly prejudicial to the Company, which was incorporated by Letters Patent ever since Philip and Mary, and afterwards established by Act of Parliament in 8 Eliz. Signed *Benj. Ayloffe*, Governor, and by 31 others. Endorsed as read this day. L. J., XVI. 284.

(b) 31 May 1698. Petition of sundry Merchants. Several of the Petitioners, being encouraged by the vote passed in the House of Commons for an easy admission into the Russia Company, entered into a contract with the Czar of Muscovy for liberty to have the sole importation of tobacco into his dominions, and in pursuance of the contract advanced the Czar 12,000*l*., the

* The words in square brackets are struck through.

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- benefit of which contract any other English subjects who are willing may yet partake of on the same terms. Petitioners, by reason of the Company's prohibition, cannot reap the benefit unless they can be admitted upon easy terms into the Company, and others would be encouraged to come into the contract also if such easy terms were established by Act. Should the Bill not pass, Petitioners may not only lose the advantage of the contract, and the nation the benefit of the tobacco trade with Russia, which the English merchants have long been attempting, and our neighbours have industriously endeavoured to obtain, but it may be feared the Czar, finding himself disappointed in the performance of the contract, may interdict not only that, but all other trade with the English. Pray to be heard in favour of the Bill, and to show that its passing will not invade the present charter of the Russia Company. *Signed* by Francis Stratford, Edward Haistwell, Edward Carleton, Nathaniel Fenchere, O. Buckingham, John Carym, Charles Joye, Theodore Janssen, Gilbert Heathcote, Thomas Stark, Robert Walker, Samuel Heathcote, William Dawsonne, Josias Wordsworth, John Gunston, Thomas Haistwell, Thomas Byford, John Harvey, and Nathaniel Gould. *Endorsed* as read this day. L. J., XVI. 306.
- (c) 7 June. Proposals of the Russia Company. *Endorsed* as delivered in this day and read and ordered to be entered. L. J., XVI. 311-2. *In extenso*.
- (d) 20 June. Proposals of the Russia Company. Identical with preceding except in substituting "half per cent." for "one per cent.," and in omitting the words "as now is paid upon all Russia goods from the Narve by Unfreemen." *Signed* as preceding. *Dated* 16 June 1698. *Endorsed* as delivered in this day and read on the 23rd of June.
- (e) 23 June 1698. In obedience to their Lordships' commands signified at the Bar on the 16th inst., the Russia Company inform their Lordships that they held a Court at Ironmongers' Hall on the 21st inst., when Mr. Stratford, Mr. Gould, Mr. Haistwell, Mr. Dawson, and Mr. Heathcote appeared on behalf of themselves and the other tobacco subscribers, whom the Court then informed that the Company was ready to make good in every point the Proposals they made to their Lordships on the 7th inst., as amended by their Lordships on the 16th inst., but that the said Mr. Stratford &c. refused to accept thereof. *Signed* Benj. Ayloffe, Governor. *Dated* 23 June 1698. *Endorsed* as delivered this day.
- (f) 23 June 1698. Reasons of tobacco contractors for not complying with the Proposals of the Russia Company, as follows:—
The Contractors with the Czar of Muscovy for the importation of tobacco into his dominions do humbly crave leave to lay before your Lordships the reasons that induced them to enter into that contract, and why they cannot comply with the proposals made them by the Russia Company.* [1. They were encouraged to enter into a contract with the Czar by the Bill that was depending in the House of Commons for the enlarging the trade to Russia by an easy admission into that Company. 2. They had reason to believe it would be acceptable to his Majesty, because they were informed his Ministers did use their endeavours to make way for a liberty to import tobacco into Russia, while his Majesty

* The portion in brackets is struck through.

and the Czar were in Holland. 3. That a trade that had never before been allowed to the English nor any other nation, and that would be of such very great and certain advantage to the Kingdom, would meet with all possible encouragement from the legislative power, at least not find any difficulties or obstructions. 4. They believed that it would never be thought that their trading in tobacco for Russia would be an invading of the Company's property, since they knew the Parliament, who have always been very tender in such cases, did grant to the Hudson's Bay and Greenland Companies a liberty to trade into countries within the charter of the Russia Company without the least consideration to the said Company, and that, for this very good reason, that the Russia Company drove no trade into those parts; and this has the very same reason, for, though that Company now trade into Russia, whither the tobacco should be sent, yet they do not trade in that commodity, and refuse to do it, though the contract has been offered them in their own Court on the same terms the contractors have it. These, with the expectation of some profit to themselves, were the reasons that moved them to engage in that affair.]

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The reasons why they cannot comply with the proposals of the Russia Company are these following: 1. That since the concluding of the contract with the Czar they have met with many great discouragements, and more especially from the Russia merchants themselves, who not only refuse to accept of the grant, or be in any wise concerned in it, but do assure them that it will be destructive to them. 2. That this discouragement from the Russia Company, and the difficulties the passing the Bill has met with from your Lordships, have so far discouraged any further subscriptions, that although the Roll doth lie open yet there hath not been anything subscribed for six weeks last past, nor is that that is already subscribed half sufficient to carry on the trade. 3. By paying a fine, and a greater imposition than will be requisite to support the necessary charge of the Company, they put a sword into the hands of their enemies to destroy them, for they, not having anything to do with the disposal of the money, have great reason to fear that those who have so strongly opposed them at home should make use of that money at the Court of Muscovy to put hardships and difficulties upon them. 4. The great sums already advanced and expended to obtain this contract (amounting to near one fourth part of all the subscriptions), and the improbability of reaping any profit by it to themselves, makes them unwilling to give any more money for a bare liberty to make use of it, and if the public (which would be a certain and probably the only gainer by it) do not think fit to encourage it, the Contractors choose rather to sit down by their first loss than to purchase a liberty to run the hazard of a greater. 5. That they are so far from expecting any advantage from the contract, that they are not only willing to part with it, but to give a good sum of money to any that will take it off their hands. Nevertheless, that the nation may not lose this year's trade in tobacco, if they may be admitted into the entire freedom of the Company, and that it cannot be done upon more reasonable terms, they are willing to pay 500*l.* fine and to bear their proportion of the charge of the Company. But they are not willing, and hope it will not be thought reasonable, to give any money for a bare liberty to trade in tobacco only, which the Russia Company

1698. affirm will be destructive to them, since that would be to purchase
 — an advantageous trade to the kingdom with their own loss.
 No. 1275. *Endorsed* as delivered in this day.

1276. May 3. Backwell's (Creditors' Relief) Act.—Amended Draft of an Act for relief of the Creditors of Edward Backwell, Esquire, deceased. The amendments are of a formal character. No amendments in the Commons. [Read 1^a this day; Royal Assent 5 July. L. J., XVI. 272, 343. 10 Will. III. c. 88 in Long Cal. In Committee, on 19 May, Mr. Backwell and several of the creditors being come in, they are *asked* why 21½ per cent. composition, and not more. *Answer*: Because the estate would not bear a greater proportion. Two hundred and odd creditors have come in: we know not how many others there may be. *Creditors*: There hath been a Stat. Bankrupts 15 or 16 years. It hath cost us much and we have got nothing. If we could hope for more than this Bill would give us we would not take this composition, but without this Bill we shall have nothing.

On 24 May the Petition against the Bill (Annex (a) below) is read. *Mr. Mould*: The creditors are under several qualifications. Some have judgments, some have bonds, and some have notes. He says he hears the estate will pay more than 21½ per cent. *Sir Thomas Powys and Sir B. Shore* (for the creditors): We are willing to leave out the Clause in the Bill that relates to judgments, which the Petitioners think may hurt them. Mould was one of the Commissioners of Bankrupts, and Mr. Bataille's son is another of them, and will lose 20s. a day if the Bill pass. Mr. Backwell died greatly indebted. A Commission of Bankrupts was taken out fifteen years since, and there has yet been no advantage to the creditors. The creditors have been at great expenses, and they are called upon by the Commissioners for further contributions. Two hundred and thirty-five of them are come to a composition. They think it will be for their benefit to take 21½ per cent. Mould's debt is but 100*l.*, and he bought it for 10*l.*: Sir Peter Daniel's is no more. Mr. Backwell paid interest 2½ years longer than any other of the bankers. *Mr. Mould* says all the debt due to him and the other petitioners is about 1,800*l.*

On 25 May *Mr. Blackmore* says he has 1,000*l.* owing him, and desires the Bill may not pass, for if he could get off Mr. Backwell's Privilege of Parliament he would get his whole debt. *Sir Peter Daniel* says the creditors are tired out with suits and charges, and therefore they take the composition. Mr. Backwell's Trustees, notwithstanding his Privilege, have been sued in Chancery. *Mr. Green*: We have discovered an estate in London that will pay 40 per cent. The Commissioners had 20s. a day. *Creditors*: You have discovered no estate. Till the Account is settled there can be no certainty. We know not how the estate is cumbered. *Mr. Green*: Several creditors have received 6s. 8*d.* per pound. *Creditors*: Why then have not you Commissioners called those creditors to account? Com. Book.]

Annexed:—

(a) 24 May. Petition of Sir Peter Daniel, Knt., Thomas Blackmore and Margaret, his wife, John Key, John Mould and Susanna Bataille, Widow. Petitioners, who are creditors of Backwell in considerable sums, have discovered at great expense that his estate, now assigned to them and his other creditors, is worth 3,000*l.* a year, Susanna Bataille having spent 300*l.* in the discovery. Backwell, however, being a Member of the House of Commons, Petitioners could not compel him to discover the secret and fraudulent conveyances of his estate. Backwell has,

since his father's death, received 127,000*l.* in addition to what Petitioners have discovered, and about ten years since made the same proposals to his creditors as he is doing now. Pray to be heard against the Bill which he has brought in. [Read in Committee this day. Com. Book.]

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1277. May 4. Colechester (Hospitals and Workhouses) Act.—List of Lords' Amendments to the Bill, viz., to add Clauses A, B, C. *Noted.* A agreed; B disagreed; C disagreed; B and C not insisted on by the Lords 13 May 1698. L. J., XVI. 283. [The said Clauses or Provisoos were reported and ordered to be engrossed this day. L. J., XVI. 273. They were added to the Bill in Committee on 12 April. Clause A was offered by Sir Bartholomew Shore. Com. Book. The Bill was brought from the Commons on 4 April. Royal Assent 16 May. L. J., XVI. 258, 287. 10 Will. III. c. 59 in Long Cal.]

Annexed:—

(a) 11 May. Commons' Reasons for disagreeing to Clauses B and C. [Reported this day from the Conference. L. J., XVI. 281. *In extenso.*]

1278. May 4. Excise Commissioners (Leather Duties Qualification) Bill.—Draft of an Act for giving time to several Commissioners of Excise therein named and their officers to qualify themselves for their employment in the Duties on Leather. Whereas the Commissioners of his Majesty's Treasury, pursuant to the power and authority to them given in and by an Act of Parliament made and passed in the eighth and ninth years of his Majesty's reign, entitled An Act for laying a duty upon leather for the term of three years and making other provision for answering the deficiencies as well of the late duties upon coals and culm as for paying the annuities upon the Lottery and for lives charged on the tonnage of ships and duties upon salt, by an Instrument under their hands, bearing date the 20th day of April in the year of our Lord one thousand six hundred and ninety-seven, did appoint Sir Stephen Evance, Sir John Foche, Francis Parry, William Strong, Edward Clarke, John Danvers, Foot Onslow, Philip Medows, and Thomas Everard, then Commissioners of his Majesty's Revenues of Excise, to be the Commissioners or Surveyors for the duties on leather by the said Act granted, who, by the said Act are empowered to substitute deputies or inferior officers under them. And whereas the said Sir Stephen Evance, Sir John Foche, Francis Parry, William Strong, Foot Onslow, and Philip Medows, six of the said Commissioners of Excise, and also divers of the inferior officers substituted under the said Commissioners of Excise, having before that time as Commissioners and Officers of Excise qualified themselves for their respective trusts and employments in the Excise, by receiving the Sacrament and subscribing to the Declaration according to the directions of an Act of Parliament made and passed in the five and twentieth year of the reign of the late King Charles the Second, entitled, An Act for preventing dangers which may happen from Popish recusants, and by taking the Oaths appointed by an Act of Parliament made and passed in the first year of the reign of his Majesty and the late Queen Mary, entitled An Act for the abrogating the Oaths of Supremacy and Allegiance, and appointing other Oaths, and also by subscribing to the Association, pursuant to an Act made and passed in the seventh and eighth years of his now Majesty's reign, entitled, An Act for the better security of his Majesty's person and government, did forbear to qualify themselves anew according to the several Acts before mentioned for

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and in respect of their employments as to the said duties on leather, not apprehending themselves in any wise obliged so to do. For obviating all doubts and questions touching such their forbearances and preventing all suits and prosecutions by reason thereof, Be it enacted, &c., that the said Sir Stephen Evance, Sir John Foche, Francis Parry, William Strong, Foot Onslow, and Philip Medows, and also all inferior officers substituted under them, or any of them, who have omitted or forborne to qualify themselves anew for their respective employment to the said duties on leather, who on or before the day of shall qualify themselves by receiving the Sacrament and subscribing to the Declaration, and by taking the Oaths and by subscribing to the Association, according to the directions of the before mentioned Acts, shall not be liable to any disabilities or penalties provided or inflicted by the said Acts, or any or either of them; but that all and every act, matter or thing done or to be done by them or any of them in relation to their said employments shall be good and valid in the law, as if they had received the Sacrament, subscribed the Declaration, taken the Oath, and entered into the Association, as aforesaid, anew, within the times limited and appointed by the said Acts. And no suit or prosecution shall be had against them, or any of them, for or by reason of such their omission or omissions, forbearance or forbearances, and all suits and prosecutions already had against them, or any of them, for or by reason of such their omission or omissions, forbearance or forbearances, shall cease and determine, anything in the said Acts or either of them, or in any other Act or Acts of Parliament, relating to such their qualifications to the contrary notwithstanding. [Read 1^a this day; committed 10 May. L. J., XVI. 272, 279. The House apparently never went into Committee upon the Bill, and, except postponements of the meeting of the Committee, there are no further entries respecting it in L. J.]

In the MS. Min. of the 10 June is the following entry:—

The Patent from the Commissioners Excise was brought and read out of it a clause. The *L. C. Justice, King's Bench*, heard. This matter to me is doubtful. It seems to me that they are not within the Act. *Mr. Justice Nevill*. I am doubtful. The clause is general. I cannot say whether they are within the Act or without. *Mr. Justice Turton*. I am of the same opinion with the Lord Chief Justice. I think these gentlemen are not bound to take the oaths and test. *Mr. Justice Powell*. Upon the best advice I can take I do not think this Patent can help them. *Mr. Justice Eyre*. I think the thing capable of debate. I think these gentlemen are not liable to the Statutes of King Charles the Second. *Mr. Baron Hatsell*. I am inclinable to think these gentlemen are not obliged to take the oaths and test. Nothing done further on the Bill.]

1279. May 7. Knight's (Exchequer Bills) Bill.—Petition of John Knight, praying to be heard by Counsel against the Bill for punishing him with the forfeiture of two-thirds of his estate for procuring counterfeit endorsements to be made upon Exchequer Bills. L. J., XVI. 278. [Counsel were heard on this Petition on 14 May. See No. 1257.]

1280. May 7. Burton's (Exchequer Bills) Bill.—Petition of Bartholomew Burton, praying to be heard by Counsel against the Bill for punishing him for false endorsing of Exchequer Bills. L. J., XVI. 278. [Counsel were heard on this Petition on 16 May. See No. 1258. An address to the King asking that Dancombe Burton and Knight might be prosecuted at law was presented, and an answer

received on the 18th that orders to that effect should be given. No further proceedings. L. J., XVI. 286, 289.]

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Annexed:—

- (a) Undated. Reply of the Commissioners of Public Accounts to the answer of Mr. Burton to so much of the Report of the Commissioners as concerns him. The Commissioners observe that Mr. Burton admits all that is in the Report, but affirms that the money granted to him and Mr. Knight for discounting tallies was granted on his memorial to the Lords of the Treasury in February 1696, setting out the particular services. It is a pity the memorial was not preserved. (See C. J., XII. 115.)

1281. May 10. Lloyd's Naturalisation Act.—Certificate that William Lloyd, Esq., received the Sacrament, according to the usage of the Church of England, on 20 March 1697 at the Parish Church of St. Martins, Westminster. *Dated* 20 March 1697. *Signed* Tho. Yates, A.M., Minister, Edw. Salisbury, Churchwarden. *Attested* by Alexander Griffith Jeremiah Crowther. [Read in Committee this day. Com. Book. The Bill was brought from the Commons on 20 April; Royal Assent 16 May. L. J., XVI. 268, 287. 10 Will. III. c. 60 in Long Cal.]

Annexed:—

- (a) 10 May. Certificate that Theodore Stael is a true Protestant and member of the true Protestant High-German Lutheran Church in London, and that he received the Sacrament in that Church on the 6th inst. *Dated* 23 March. *Signed* by John Esdras Edzard, Minister, and Theodore Jacobson, Junior, Elder. *Attested* by Henry Ulcken and Peter Willoke. [Read in Committee on May 7 and again this day. Com. Book.]
- (b) 10 May. Similar certificate as to Detleff Christman Hoppe. *Dated* and *signed* as preceding. *Attested* J. Joyce, Robt. Jackson. [Read in Committee on May 7 and again this day. Com. Book.]

1282. May 10. Impeachment (Goudet and others).—Message from the Commons impeaching John Goudet, David Barrau, Peter Longueville, Stephen Seignoret, Reney Baudowin, Nicholas Santiny, and Peter Diharce, of several high crimes and misdemeanours. [Brought up this day. L. J., XVI. 280. *In extenso*.]

Annexed:—

- (a) 10 May. Order of the House of Commons directing Sir Rowland Gwyn, when carrying up the above Impeachment against Goudet and others, to acquaint the Lords that the persons impeached are in the custody of the Serjeant-at-Arms, ready to be delivered to the Gentleman Usher of the Black Rod. [Brought up as a Message from the H.C. this day. L. J., XVI. 280.]
- (b) 11 May. Resolution of the Commons impeaching John Pearse of high crimes and misdemeanours, and Order for Sir Rowland Gwyn to go to the Lords and impeach him. C. J., XII. 266. *In extenso*. [This and the next Paper were brought up as a Message from the Commons this day. L. J., XVI. 281.]
- (b¹) 11 May. Order of the Commons directing Sir Rowland Gwyn, when carrying up the Impeachment against John Pearse to acquaint the Lords that he is in the custody of the
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Serjeant-at-Arms, ready to be delivered to the Gentleman Usher of the Black Rod. C. J., XII. 266. *In extenso.*

(c) 19 May. Petitions (7) of the following persons impeached to be admitted to bail, viz. :—

- No. 1. John Goudet, merchant.
 „ 2. David Barrau, merchant.
 „ 3. Stephen Seignoret, merchant.
 „ 4. Reney Baudowin, merchant.
 „ 5. Nicholas Santiny, merchant.
 „ 6. Peter Diharee, merchant.
 „ 7. John Pearse.

Endorsed as read this day. L. J., XVI. 292.

(c) 19 May. Names of Bail offered for the following persons impeached. Four papers, viz. :—

For John Goudet	-	{ Stephen Seignoret, Woollen Draper, Lombard Street.
		{ Philippe Harman, Wine Cooper, Cannon Street.
For David Barrau	-	{ John Cox, Cloth-worker, St. Thomas Apostle.
		{ Daniel Motet, Smock Alley, Spital-fields.
For Stephen Seignoret		{ Robert Lancashire, Merchant.
		{ William Sheppard, Goldsmith.
For Reney Baudowin		{ Peter Gray, Packer.
		{ Noah Houssaye, Merchant.
For Nicholas Santiny		{ John Hulls, Pewterer.
		{ Isaac Bernard, Merchant.
For Peter Diharee	-	{ Mr. Thomas Payne, Goldsmith, for 2,500 <i>l</i> .
		{ Mr. William Pate, Draper in Fleet Street, for 2,500 <i>l</i> .

Noted.—These two persons were approved for bail as above by the Honourable House of Commons for Peter Diharee.

			£
		{ Daniel Thornbury, of the Inner Temple, Esq.	- 1,000
		{ Dr. John Harborough, by Doctors Commons	- 1,000
For John Pearse	-	{ Peter Evans, of the Old Bailey	- 1,000
		{ George Clerk, Smithfield	- 1,000
		{ Cotton Plowden, Draper, Paul's Churchyard	- 1,000

L. J., XVI. 292. C. J., XII. 257, 263.

[On 19 May it was ordered that the Committee appointed to consider of the method of proceeding on impeachments should consider of the sufficiency of the bail to be offered by Goudet, &c. L. J., XVI. 292. The Committee met on 21 May, and the names proposed for bail were submitted to and approved by them and reported to the House. The names are slightly different from those given above. Com. Book. L. J., XVI. 294.]

(d) 19 May. Draft Recognizances of John Goudet and David Barrau, each in 5,000*l*., to appear personally before the Lords from day to day, until further Order.

- (e) 19 May. Report of the Select Committee appointed to consider the method of proceedings upon impeachments. L. J., XVI. 292. *In extenso*. [The Committee before reporting considered the precedent of Sir Adam Blair of 29 June 1689. Com. Book.] 1698.
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- (f) 20 May. Petition of Peter Longueville, Merchant, to be admitted to bail. *Endorsed* as read this day, and he bailed by Mr. Tho. Colson and Mr. David Prole. L. J., XVI. 293.
- (g) 23 May. Petition of John Goudet, David Barrau, Stephen Seignoret, Reney Baudowin, Nicholas Santiny, and Peter Diharee, Merchants, and John Pearse, Gent., praying for further time to answer. *Endorsed* as read this day. L. J., XVI. 295.
- (h) 27 May. Answer of Peter Longueville. *Endorsed* as read this day. L. J., XVI. 300. *In extenso*.
- (i) 28 May. Answers (7) of the following:—
- | | | |
|-----------------------|---|--------------------------------------|
| 1. John Goudet. | } | L. J., XVI. 302. <i>In extenso</i> . |
| 2. David Barran. | | |
| 3. Stephen Seignoret. | | |
| 4. Reney Baudowin. | | |
| 5. Nicholas Santiny. | } | L. J., XVI. 303. <i>In extenso</i> . |
| 6. Peter Diharee. | | |
| 7. John Pearse. | | |
- Endorsed* as delivered this day.
- [On the previous day they delivered their pleas or answers and were told by the House that they had neither confessed nor denied the fact by their pleas or answers, and could not be brought to a trial. They were given till this day to consider whether they would follow Longueville's example. MS. Min.]
- (j) 1 June. Commons' Replications to the Answers of (1) John Goudet, (2) David Barrau, (3) Peter Longueville, (4) Stephen Seignoret, (5) Reney Baudowin, (6) Nicholas Santiny, (7) Peter Diharee, and (8) John Pearse. Eight parchments. C. J., XII. 293-4. *In extenso*. [Brought up this day. L. J., XVI. 307.]
- (k) 6 June. Order of the Commons directing a Message to be sent to the Lords to desire that convenient place may be appointed, as usual, for the Managers of the Impeachment. C. J., XII. 301. *In extenso*. [Brought up as a Message from H. C. this day. L. J., XVI. 310. On 7 June this Message was referred to the Committee appointed to consider the method of receiving impeachments. L. J., XVI. 311. The Committee reported on the following day that they had examined precedents and found that it was usual for the Managers of the House of Commons to stand at the Bar and not to make any other provision for them. A Message to this effect was sent to the Commons. *Ib.* 313. On 15 June the Commons desired a Conference, at which they made a claim to have accommodation provided. The Lords adhered to their Resolution, three Lords dissenting. *Ib.* 318. The reasons were given at another Conference on the following day. *Ib.* 319. A free Conference took place on 21 June, and was reported by the Managers on the next day. *Ib.* 324, 325.]

The following account appears in MS. Min. :—

22 June. *The Earl of Rochester* gave an account who were the Managers. Sir Rowland Gwyn spoke first. He read the Message first sent to this House, then opened the nature of the offence, and that it was a very foul one. It would fall out

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unlucky if the offenders were not punished and the trial delayed. He showed the reasonableness of what was desired by them; that they could not stand. He cited Lord Strafford's precedent; he did not urge any other precedent.

He was seconded by Mr. Solicitor, and he enlarged much more upon the reasonableness of the thing than usual. He said for the heinousness of this crime they had voted they would attend this trial by a Committee of the whole House. One gentleman spoke of the judicial of this House and that your Lordships had sat with them. The gentleman was interrupted by some of their Managers.

Your Lordships' Managers desired they would reduce the question to the Message itself, for a convenient place as was usual. The Managers laid before them several precedents of what has been laid before this House. The last precedent they concluded with was that of the Lord Viscount Mordaunt, and showed there was no provision made for them. Notice was taken of the expression let fall by Mr. Solicitor, that the debate was altered to argue from the inconvenience and not from the precedents urged. The gentleman disowned Mr. Solicitor had any authority to say what he did. In the end the Commons insisted it was their right.

L. Godolphin heard, and says they cited the case of Sir Giles Mompesson. *M. Normanby*. They urged the Lords were the same in Westminster Hall as here, and having a place for them there, they thought they might use the word "usual." *E. Peterborough* heard also. The paper of the precedents offered at the Conference was laid before the House. House *moved* to agree to the House of Commons for a place to be provided for them at the trial of Goudet, &c.

House *moved* to let alone the consideration of this matter for two or three days.

Proposed to send a Message to the House of Commons to let them know [that] at the Conference there was something let fall of a Resolution of attending at the trial in a body, and therefore desire to know in what method they will proceed on this Impeachment, that there may be conveniences made accordingly.

Proposed to send a Message to acquaint [the House of Commons that we should be] glad to be satisfied how they intend to come to this trial, that we may know how to proceed accordingly. *Proposed* that precedents be searched in relation to Conferences after free Conferences [and] what has been done after a free Conference. *Ordered* that this debate shall be resumed to-morrow. See also C. J., XII. 339-41.

[For proceedings on 23 June see L. J., XVI. 326.]

On 24 June the House took into consideration the Conference had yesterday with the House of Commons relating to their being present at the trial of Goudet and others as a Committee of the Whole House. *Moved* that the place for trial of Goudet and others be in the Court of Requests. *Sir Christopher Wren* was called in and asked how long his business will be to prepare a place in the Court of Requests or Westminster Hall. [*Answer.*] I think the Court of Requests may be finished in five days. The Wardrop may go on: There must be two days more for the matters. It will be sooner done without a false floor. It will be as soon done there if not a false floor, if the people could be kept

out. *Agreed* that the trial of Goudet and others be in Westminster Hall. *Ordered* that an Address be made to his Majesty, &c., as in L. J., XVI. 329.

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On 28 June Mr. Surveyor was called in and asked how soon he can be ready with the scaffolds in Westminster Hall. *Answer.* I can be ready by Friday next. Lord Montagu says by what he understands by the officers he may be ready by Tuesday next. Then it was *ordered* that the trial should take place on Monday, as in L. J., XVI. 331.]

- (l) 6 June. Petition of John Goudet, David Barrau, Stephen Seignoret, Reney Bandowin, Nicholas Santiny, Peter Diharee, Merchants, and John Pearse, Gent. Their Lordships have appointed the 9th inst. for the trial. The charge is very general, uncertain, and retrospecting for nine years past, and Petitioners' Counsel, by the hurry of business and the sittings out of term, are unable to assist them. Pray for a fortnight's further time to prepare their defence, and that their Lordships will order that Sir Thomas Powys, Sir Bartholomew Shore, Mr. Northey, Mr. Dodd and Mr. Phipps may be their Counsel, and their Solicitors to manage for them at the trial. *Endorsed* as read this day and Counsel assigned. L. J., XVI. 310.
- (m) 7 June. Petition of Stephen Seignoret, Merchant, praying that one of the Clerks of the Treasury may attend at the trial with a Report and some other papers transmitted to the Treasury by the Commissioners of the Customs relating to compositions made by Petitioner for importation of French silks, and for leave to inspect the Committee Books of the Lustring Company from 1693 to the end of 1697, and that the said books may be produced at the trial. *Endorsed* as read this day. L. J., XVI. 311.
- (n) 7 June. Petition of John Goudet, David Barrau, Stephen Seignoret, Reney Baudowin, Nicholas Santiny, and Peter Diharee, Merchants, and John Pearse, Gent., for an Order for several witnesses. *Endorsed* as read this day. L. J., XVI. 311.
- (o) 7 June. Petition of Peter Longueville, Merchant, that Sir Bartholomew Shore and Mr. Northey may be permitted to be his Counsel. *Endorsed* as read this day. L. J., XVI. 311.
- (p) 8 June. Precedents reported this day from the Select Committee appointed to consider the method of proceedings upon impeachments. The precedents give the proceedings in the following cases, viz. :—
- Sir Edward Herbert, 2 and 8 March 1641.
V. Mordaunt, 21 and 26 Jan. 1666.
George Benyon, 5 and 6 April 1642.
The L. Mayor, 19, 20 and 22 July 1642.
Archbp. of Canterbury, 4 and 12 March 1643.
Mr. Justice Berkley, 7 Sept. 1643.
- See L. J., XVI. 313 for the Report *in extenso*.
- (q) 8 June. Draft Message to the Commons, stating in answer to their Message of the 6th inst. (Annex (k) above), that, according to precedents, Managers of the Commons have always come to the Bar, without any other provision for them, and that their Lordships intend to proceed in the same manner as is usual. L. J., XVI. 313. *In extenso*.
- (r) 8 June. Order of the Commons for a Message to be sent to the Lords to put off the trials. C. J., XII. 306. *In extenso*.

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[Brought up as a Message from H. C. this day. L. J., XVI. 313.]

(s) 9 June. Petition of Stephen Seignoret, Merehant. The Books of the Lustring Company, as to which their Lordships have not yet made any Order, are absolutely necessary for Petitioner's justification, it appearing that he has greatly improved and increased the English manufacture of Lustrings and Alamodes, and also done great services to the Company. Prays that they may be produced at the trial, and for leave to inspect them meanwhile. *Endorsed* as read this day. L. J., XVI. 314.

(t) 20 June. List entitled "Managers of Free Conference," viz.:—

L. President.	E. Tankerville.
M. Halifax.	V. Townshend.
M. Normanby.	D. Newcastle.
E. Rochester.	E. Northampton.
L. Godolphin.	E. Bradford.
E. Marlborough.	D. Northumberland.
E. Stamford.	L. Herbert.
L. Steward.	

[The free Conference, held on 21 June, was agreed to this day, when the Managers must have been appointed. L. J., XVI. 322. There is no entry of their names in L. J. or MS. Min.]

(u) 27 June. Petition of John Du Maistre, praying their Lordships to allow him Counsel, to order him a copy of the Impeachment and give him time to answer, and to admit him to bail. *Endorsed* as read this day, and he bailed. L. J., XVI. 330.

(v) 28 June. Petition of John Goudet, David Barran, Stephen Seignoret, Reney Bandowin, Nicholas Santiny, Peter Diharce, Merehants, and John Pearse, Gent., for leave to withdraw their pleas and answers, and imploring their Lordships' elemency. *Endorsed* as read this day. L. J., XVI. 331. *In extenso*.

(w) 30 June. Answer of John Du Maistre to the Articles of Impeachment. *Endorsed* as delivered at the Bar this day. L. J., XVI. 333-34. *In extenso*.

On 30 June Du Maistre was brought to the Bar, delivered his answer, and pleaded guilty. A Message was sent to the Commons to inform them of this fact. Then *John Goudet* was called in and told by Order of the House that "if you expect the Lords should use compassion to you, you must think of an ingenuous confession that so [the] whole nation may receive advantage by it." He denies positively the corresponding with the enemy or carrying wool, but confesses somewhat as to the silks. They having pleaded guilty to the Articles of Impeachment against them, this House is going to consider of their punishment, and that if they made an ingenuous confession it might extenuate the judgment. *John Goudet* was called in again and asked by Order of the House how he came to make such solemn protestations of his innocence to part of the Articles of Impeachment against him when he has pleaded guilty to the whole. *Answer*. I am a stranger and do not know the custom. I hoped by pleading guilty to the whole I should be used more mercifully. Our friends told us so. Our Frenchmen and especially Mr. Sheppard. He said, I think it best for you to submit and plead guilty. We did not consult with our Counsel.

He was asked what were the arguments that Mr. Sheppard used to induce him to confess. *Answer.* He told us our trial will be a fortnight or more, and by it you will anger the Lords, and it may be better for you to confess, and upon this we petitioned, and the Lords may be more merciful to you. On Monday last I went to Mr. Sheppard and Mr. Albert went with me. I said, We are strangers; I ask your advice. He said, You will anger both Houses and his Majesty is minded to go abroad, and it is my opinion [that] if you confess it may be of advantage to you. Asked how often he has seen Mr. Sheppard. *Answer.* On Monday I spoke to him and on Tuesday I saw him. Not one word about subscribing to the East India Company. *Ordered* that Mr. Samuel Sheppard do forthwith attend this House. *David Barrau* was called in and asked if he had any discourse with Mr. Sheppard about pleading guilty. *Answer.* Yes, it was his advice not [to] trouble the House so long but submit all to your Lordships. He said if he was in my case he would do the same thing. I never was to his house. I never spoke to him but in the room of the House. I asked his advice. I thought Mr. Sheppard knew more of these things than I did myself. I have seen him three or four times this three or four days. Several people advised me to it. *Stephen Seignoret*, asked the same question. *Answer.* I was advised by my friend daily and [he] told me it was a presumption to contend with the House of Commons, and he advised me to submit to the Lords. He said it will be an inducement to the Lords to treat us favourably. He told me just now that if you subscribe in the new Company it may bring you off: he said this about half an hour since: he said this in jest to me. *Reney Baudowin*, asked the same question. *Answer.* Yes, I asked his advice and he advised me so to do. I went for his advice. He encouraged us in doing of it as the likeliest way to be in your favour. I was unwilling, for the Articles are great, and my guilt is only a little smuggling. *Nicholas Santiny*, called in and asked. *Answer.* Mr. Sheppard said it was the best way for me to find mercy. I saw Mr. Sheppard at the Coffee House, it was two days since, about the time I pleaded guilty. I came to the Coffee House, and he said 'tis best for you to throw yourself on the mercy of the House. We were at the Coffee House and he came to us. There was no appointment for him to come to us. *Peter Diharce*. He said our best way was to submit. I spoke to him. I was yesterday morning at his house. The other gentlemen [were there also]. I could not say I was guilty, for I hoped to make such a defence as might justify myself. I told Mr. Sheppard so. I was easily persuaded to it. I told Mr. Sheppard I conceived myself innocent. I spoke with him at his house. Mr. Seignoret and Goudet and young Aurioll were with me. *John Pearse*, asked the same question. *Answer.* Mr. Sheppard came to the merchants and told us that if he might advise us it was to throw ourselves at your Lordships' footstool. I was the last that agreed to the motion. He spoke to us in the Black Rod's room. He came to Seignoret, as I remember. It was the day before we petitioned. We showed Mr. Sheppard a rough draft of the petition. He said and multiplied these arguments and assurances of the Company and Nation, "I as a neighbour advise you to submit to the Lords." He told me if I did not do as

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others I might distinguish myself. I was the last that consented to it. "Their Lordships are merciful and you had best lie at their mercy." *J. Du Maistre*, asked as before. *Answer*. I never spoke to Mr. Sheppard, but I saw the Articles and mine is only to the smuggling trade. *Proposed* to call in Mr. Sheppard and ask him whether he did advise them to plead guilty. *Mr. Sheppard* was called in and told the persons impeached had told the Lords that he advised them to plead guilty. *Answer*. They came to me to advise with me, and I told them I thought it was their best way to throw themselves at your Lordships' feet. They asked my opinion. They seemed to say they were not guilty of anything but the smuggling trade. I spoke with them in the Coffee House also. *Proposed* to ask Mr. Sheppard upon oath whether he was not ordered by any other person to give them this advice. He is called in and sworn and asked whether any person did order or direct or advise him to give this advice to these persons. *Answer*. I spoke to several persons. Nobody spoke to me to advise them to confess. *Mr. Diharce* and *Mr. Sheppard* were called in and Mr. Sheppard was told Diharce said he told Mr. Sheppard he was not guilty. *Mr. Diharce* says, "I told him I did not question but I could justify myself before your Lordships. I did not press it on Mr. Sheppard." *Mr. Sheppard*, says, "I remember as to the whole indictment they did all say they were not guilty. What I did was only for them. I had no inducement so to do." [*Mr. Diharce.*] Mr. Sheppard said it was our best way. He only advised us to it. Nothing done on this matter. MS. Min. On the same day a Message was received from the Commons asking what had been done in relation to John Aurioll. A witness was heard to say that Aurioll had gone to Holland, and the Commons were informed accordingly. Then the House went into Committee upon the Report made the previous day by the Committee appointed to consider what judgments had been given upon impeachments for high crimes and misdemeanours (E. Bridgewater in the Chair).

The Articles of Impeachment against Goudet and others were read.

The Lord Chief Justice heard upon the Articles. They cannot be prosecuted for treason on this Impeachment, though the matter were treason. Their confessing themselves guilty was read out of the book. The precedents reported yesterday were read, viz. : Mompesson's judgment, Lord Chancellor Bacon's judgment, Earl of Middlesex's, Sir Francis Mitchell's. *Proposed* to fine these men to a proportion of what they are worth. *Proposed* that the seven persons who have confessed be fined in a certain sum. *Lord Chief Justice*. Where any person is convicted, we consider the nature of the offence and the ability of the person, but always a certain sum. *Lord Chief Baron*. We cannot distinguish the fine. *Moved* to name a Committee to meet to consider of methods particularly to inform themselves of the several estates of these persons. Then the Committee was named as in L. J., XVI. 334.

On 1 July a letter from Goudet (Annex (x) below) to Mr. Franklin, [which] declared that he had confessed by advice of a great man, was read.

Mr. Acton was called in and sworn. *Asked* if Mr. Franklin gave him the letter, he says he did. "Mr. Franklin told me he

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had the letter" *Mr. Franklin*, a Quaker, took the Attestation at the Bar, pursuant to the Statute 7 Will:• [He says] This letter was brought me by a porter to my house. I believe it came from them, they having spoken to me to this purpose. *Mr. Barrau*, asked if the letter was his hand said it was Goudet's hand, his partner. "I never heard of nor saw the letter before." *John Goudet*, asked if he knew that letter, answers he wrote the letter. "I mean *Mr. Sheppard* by the great man mentioned in the letter." MS. Min.

(x) 1 July. Letter from Goudet and Barrau to *Mr. Franklin*, as follows:—Sir, By the advice and direction of a great man, we have pleaded guilty, and as to-day the Lords are to consider what fine is fit to be put upon us, this is to desire the favour of you to go to Westminster this morning, if you can conveniently, and there to speak to as many Lords you can, that our fine might be very small, as being unable to a great one, and because we have been at vast expenses for twelve months past that we have been under prosecution. We are under the Black Rod's custody; therefore we cannot wait of you, as we would have done. We rely much upon your friendship and kindness, and so remain, your most humble servants, Goudet and Barrau. This Thursday the 30th of June we shall be in the Black Rod's room in Westminster. *Endorsed* as read this day.

(y) 1 July. Petition of Thomas Garway, Merchant, praying to be discharged from his bail for John Goudet, who has pleaded guilty. L. J., XVI. 336. *In extenso*.

(z) 2 July. Accounts of the estates of the persons impeached, viz.:—

1. Nicholas Baker: Knows none of the persons impeached but Diharce, Pearse and Du Maistre, whom he has known for some years, but never had any opportunity of knowing what were their estates, except that they live in good credit. Is informed, on enquiry, that Seignoret and Santiny are persons of very good substance.

2. Henry Baker: Has found by enquiry of several merchants, both English and French, of mercers, at the Custom-House, and by divers other ways, that the estates of the persons impeached are as follows:—

Partners	{	Stephen Seignoret from 80,000 <i>l.</i> to 100,000 <i>l.</i> His credit great, no child.
		Reney Baudowin from 15,000 <i>l.</i> to 20,000 <i>l.</i> (single man)
		Nicholas Santiny from 7,000 <i>l.</i> to 8,000 <i>l.</i> (single man).
Partners	{	John Goudet from 6,000 <i>l.</i> to 7,000 <i>l.</i>
		David Barrau from 3,000 <i>l.</i> to 4,000 <i>l.</i> , single man.
		Peter Diharce from 8,000 <i>l.</i> to 10,000 <i>l.</i> , single man.
		John Du Maistre from 9,000 <i>l.</i> to 10,000 <i>l.</i> , children.
		John Pearse from 4,000 <i>l.</i> to 6,000 <i>l.</i>

3. Hillary Reneu: Stephen Seignoret is thought to be a rich man. Believes he is worth 50,000*l.* Peter Diharce is of great

* 7 and 8 Will. III. c. 34, "An Act that the Solemn Affirmation and declaration of the people called Quakers shall be accepted instead of an oath in the usual form."

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credit and great parts. Supposes him worth 3,000*l.* or 4,000*l.* Reney Baudowin is going to be married, and it is said he is worth 15,000*l.* Nicholas Santiny about 7,000*l.* or 8,000*l.* Knows nothing of John Pearse. John Du Maistre is taken to be worth 1,000*l.* [In Com. Book about 10,000*l.*]

Peter Reneu: Believes Stephen Seignoret may be worth from 40,000*l.* to 60,000*l.*: he supposes 50,000*l.* Peter Diharee is a young man of good credit; he believes he may be worth 5,000*l.* or 6,000*l.* Reney Baudowin, he believes, may be worth between 8,000*l.* and 10,000*l.* Nicholas Santiny may be worth 3,000*l.* or 4,000*l.* at most. John Du Maistre has several children: he may be worth 8,000*l.* or 10,000*l.*

4. John Gillibrand: John Goudet from 6,000*l.* to 7,000*l.*; David Barrau 1,000*l.*; Stephen Seignoret, common fame reputes him worth near 100,000*l.*; Peter Diharee 10,000*l.*; Reney Baudowin 10,000*l.*; Nicholas Santiny 7,000*l.* or 8,000*l.*; John Pearse 2,000*l.*; John Du Maistre 7,000*l.* or 8,000*l.*

Dinah Masou: John Goudet is reported worth 7,000*l.* or 8,000*l.*; David Barrau, she has heard, 500*l.* or 600*l.*; Stephen Seignoret reported worth 70,000*l.* or 80,000*l.*; Peter Diharee reported worth 1,000*l.*; Reney Baudowin reported worth 15,000*l.* or 20,000*l.*; Nicholas Santiny about 6,000*l.* or 7,000*l.* Knows nothing of John Pearse. John Du Maistre reported worth 6,000*l.* or 7,000*l.*

5. George Townesend: Does not personally know any of the persons impeached. Has only once seen Du Maistre, that is since he was prosecuted, and never remembers to have ever heard of any of them before. Is informed, on enquiry, that Mr. Seignoret had the reputation of being a man of great estate. Has heard that Seignoret should say before the Committee of the Commons that he had for himself and his friends lent the Government 400,000*l.*, and that in July last he had public securities to the value of 105,000*l.* Is induced to believe, after examining the witnesses intended to be made use of at the trial, that a very beneficial trade has been driven by all the persons impeached in prohibited commodities, without paying customs, by which he conceives they have been great gainers, but he does not hear that any of them have any estate in land or houses. No one but those concerned in trade with them can make any estimate of their estates.

6. John Bridges states on oath that he has heard that Seignoret is very wealthy and reputed to have a very good estate and that John Pearse is worth little or nothing; but as to the estates of them and the six others he can say nothing of his own knowledge, and knows not any one who can inform him.

[Laid before the Committee which had been appointed to inform themselves of the particular values of the estates of the persons who had pleaded guilty and reported to the House this day. Com. Book, L. J., XVI. 337.]

(aa). 5 July. Petition of John Goudet, David Barrau, Stephen Seignoret, Reney Baudowin, Nicholas Santiny, Peter Diharee, John Pearse and John Du Maistre. Petitioners, being by their Lordships' judgment ordered to be kept in Newgate till they have paid their fines, apprehend that the gaoler may restrain them from seeing their relations and friends, without whose aid they could not raise the money. Pray that they may have the liberty of the prison. L. J., XVI. 342.

1283. May 11. Writ of Summons (L. Cornwallis).—Writ of Summons to Charles, Lord Cornwallis. *Dated* 2 May. [Sat first in Parliament this day, upon the death of his father. L. J., XVI. 281.] 1698.
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1284. May 12. *Lucy v. Bishop of St. David's*.—Petition of Robert Lucy, Esquire. Petitioner is and has been for 30 years Register of the diocese of St. David's, by a Patent granted by his father William Lucy, late Bishop, and has been entitled to the fees and perquisites of that Office. His title has been lately confirmed by the Court of Exchequer in a suit brought against him for recovery of the Office by a new Patentee under Thomas, the present Bishop, who, notwithstanding, has received for the last nine years the fees so due to Petitioner, and not only detains them, insisting on his Privilege, but has also neglected to make any entry in the Registry of such matters despatched by his Lordship as is required by the Canons, whereby Petitioner is disabled from ascertaining what fees are due to him thereupon, and is in danger of losing them. His Lordship meanwhile is suing Petitioner for a small rent for tithes which he holds from his Lordship. Prays the House to grant him the same benefit of the law against the Bishop for recovery of his fees as the Bishop has against Petitioner for recovery of his rent. *Endorsed* as read this day. L. J., XVI. 282.

[The Petition and Answer were referred to the Committee for Privileges on 16 May. L. J., XVI. 286. On 23 May, *Dr. Waller* and *Mr. Price* were heard on behalf of the Petitioner. *Dr. Henry Fauconberge*. I have known him Register since '81; he was always known to be a Register, he enjoyed the fees. Now the Bishop institutes privately and so Lucy cannot know what he does. The Bishop makes no entries: I have searched the offices: since '88 no entries made of anything: there are no licences entered: there are great complaints of it: no fees are received by any officers. The Rule of Court was read to prove the trial in the Exchequer. Williams, this now Bishop's Secretary, is an Attorney at law. *Philip Clerk* was heard. He said he was willing to deliver up the Bishop's Patent. The Petition was by Mr. Robert Lucy. He sent the Petition down and Mr. Lucy sent it signed up. The Bishop produces a discharge from Mr. Lucy. *The Bishop of St. David's* was heard speak for himself. Counsel withdrew. *The Bishop of St. David's* was further heard. After debate, *Ordered* to Report that, it appearing to their Lordships by what the Bishop of St. David's has done in this case he is only a trustee and therefore their Lordships are of opinion he has no Privilege in this case. Priv. Book. L. J., XVI. 294. On 29 November 1699 the House was acquainted that the Bishop had resumed his Privilege and desired to be heard by his Counsel as to the method of proceeding against him by the Archbishop, and as to his being tried in a Court that he ought not to be. Statutes of 24 and 25 Hen. VIII. read. On 4 December Counsel were called in and acquainted by the Lord Chancellor that they must confine themselves to the Order and matter of Privilege and not go into the merits of the case. *Sir Thomas Powys* is heard for the Bishop: Since there was a sentence going forward to deprive this Bishop, I doubt not but it may [be] excusable for the Bishop to resume it [his Privilege] when the sitting of the Parliament was so near. We insist that the [Arch]bishop of Canterbury by his single authority alone cannot deprive a bishop. No man can by any ways give a jurisdiction where there is none. (10 Rept. Cooke.) It is never too late to say the Court that judged had no jurisdiction in case there was none originally. The reason why he should not insist is because the Bishop has

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appealed to the delegates. This is the great cause why he ought to resume it. After he had declared he would insist upon his Privilege yet the sentence was pronounced. There being no stay by insisting on his Privilege there was no way to stop it but by appealing.

The question is whether there be such a power singly in the Archbishop to deprive a bishop. This was never yet done in any time whatsoever. There is no instance where this has been done singly and solely by an Archbishop. Spelman says the bishop was deprived in full Council. The Bishop of London was deprived by the King's Commission. *Sir Bartholomew Shore* heard for the Bishop: I beg your Lordships to consider the nature of this jurisdiction. (He reads the sentence against him for deprivation.) The visitorial power is in the Archbishop, but this is not. *Dr. Oldish* heard for the Bishop. *Mr. Serjeant Wright* heard for the Archbishop of Canterbury. The Privilege was once duly waived and the House approved of it as per your Order. *Dr. Waller* heard for the Archbishop. He submitted to the Archbishop and acknowledged he had power of suspending. *Dr. Cook* heard also. Counsel withdrew. *Mr. Attorney-General* desires to be heard for his Majesty that from the debate this day he thinks something may arise which may tend to the diminution of his Majesty's prerogative in ecclesiastical affairs. *Ordered* that the Lords following inspect the Journals whether when *Mr. Attorney-General* is heard for the King the Counsel for the party ought not to be present. *Ordered* that the Lords and Judges be summoned to attend Wednesday next. MS. Min. See also L. J., XVI. 480.

On 6 Dec. L. Audley reported that the Committee was of opinion that when the Attorney-General was heard the Counsel for the parties should be present. MS. Min. Com. Book. See also L. J., XVI. 481, for Report. The House took notice that among the precedents cited there was mention of the Earl of Banbury in 1661. *Ordered* that the Committee [of the] Journals inspect that Journal and alter it if they think fit. MS. Min.

The Counsel were then called in and told by the Lord Chancellor that *Mr. Attorney-General* desiring to be heard for the King the Lords think it fit the Counsel on both sides be present. Then *Mr. Attorney-General* was heard at the table. The question is how far this affects his Majesty's supreme authority in ecclesiastical matters. It consists of two parts—a power of making laws and constitutions in the Church. It may be called the legislature in the Church. This power is settled by Act of Parliament in the Convocation and this by Act 25 H. VIII. The power consists in the punishing and correcting offences, 23 H. VIII. ch. 9. He was heard as to the Archbishop's authority. Then the Counsel were told that if either side had an inclination to speak they might. *Sir Thomas Powys* heard to what *Mr. Attorney* said. It seems, by what *Mr. Attorney* says, there is a deficiency, and such as ought to be remedied. *Dr. Oldish* heard. *Mr. Serjeant Wright* heard for the Archbishop. He cites the Act De Heretico Comburendo, for taking that Act away, 29 Car. II. *Dr. Waller* heard also. Counsel and civilians withdrew. *Proposed* to hear the Judges, and the Archbishop desires to have them heard. (1) Whether or not the King has a power to erect a Court, that is to join by Commission some persons to take cognizance of what a bishop has done? (2) Whither this power is to be lodged and whether it is rightly lodged in the Archbishop? (3) By what method they judge by the laws of the land [as they] now stand? A Bishop that is guilty of misdemeanour may be proceeded against by deprivation? *Question agreed* to be asked the Judges.—By what method as the law now stands a bishop guilty of any

ecclesiastical offence for which the punishment is deprivation may be deprived?

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L. Ch. Justice K. Bench.—I am of opinion there is no way but by his Metropolitan, the Lord Archbishop of Canterbury, if he is under his [jurisdiction] and that this is the law of the land. This is universally so—not [but that] if any exception had been made, it must be by some law. No law in England clips the Archbishop's power. Twisden, Book concerning license in the Church. Stat. 23 H. VIII. concerning citations that was made against the Archbishop's Court. I do not find that a Convocation ever had such a jurisdiction. If the Convocation had it, there is no appeal to any other. *Lord Chief Baron* heard: I concur with what the Lord Chief Justice has said. The power is in the Archbishop and nobody else. *Mr. Justice Nevill* of the same opinion. *Mr. Justice Powell.*—This power was always lodged in the Archbishop. As visitor he has a power of deprivation. If it is not in the Archbishop it is not in the King. The Archbishop may call all if he will, yet it is but to assist him. *Mr. Justice Blencowe, Mr. Baron Powys, Baron Hadell* [Hatsell], and *Baron Gold* of the same opinion. The Statute 29 Car. II. ch. 9 read: last Proviso, Statute 25 H. VIII. read. After debate of what was offered relating to this matter, the *Bishop of St. David's* heard to what was said by Mr. Attorney-General and the Judges. [*Proposed* that this be the question—Whether the Bishop of St. David's has done well to insist upon his Privilege before the Archbishop?* The Stat. 13 Car. II. read. After long debate, *Question proposed* whether the Bishop of St. David's has rightfully resumed his Privilege? *Question proposed* whether the Bishop of St. David's has a right to resume his Privilege?] After debate *Question put* as in L. J., XVI. 482, and *Resolution passed* that the Bishop should not be allowed his Privilege. MS. Min.]

Annexed:—

- (a) 13 Feb. 1699. Petition of Thomas, by divine permission Bishop of St. David's. Petitioner, knowing his innocency, waived his Privilege and appeared before the Archbishop of Canterbury, upon articles promoted against him by Lucy, whereupon the Archbishop, without sufficient authority or precedent, by his own sentence deprived Petitioner of his bishopric and taxed him with 663*l.* 15*s.* 8*d.* costs. Petitioner having appealed, the same judges, delegates, or most of them, who had condemned him, were again appointed in his Appeal, and, before hearing the merits, censured him by suspending him from his episcopal office, and afterwards rejected evidence showing conspiracy and false swearing. Petitioner then applied to the King's Bench for a Writ of Prohibition, and to have the jurisdiction and authority assumed by the Archbishop brought judicially before the Court, but the said Writ, together with a Writ of Mandamus to examine witnesses, was refused, although Petitioner offered to declare on such Prohibition that the said question might appear on record and be judicially determined, and Petitioner is thus deprived of his proper remedy by Writ of Error to their Lordships. Prays for relief. *Endorsed as read* this day; read 15 Feb. and rejected. [Read this day, and the Lord Chief Justice King's Bench ordered to attend. On the 15th the Lord Chief Justice was heard. There was a Prohibition

* The words enclosed within brackets are struck through and the words "and Delegates" are erased here.

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moved for but not entered on record. It is my Lord's business to do it. Then the Bishop was heard and the Petition rejected. MS. Min. L. J., XVI. 516.]

1285. May 14. Housebreakers Discovery &c. Bill.—Commons' Engrossment of an Act for the better discovery and suppression of Housebreakers.

§ i. Whereas great complaint has been made from diverse parts of the Kingdom of England and Dominion of Wales of frequent and notorious burglaries and breaking up of houses, whereby many murders, firing of houses and other outrages have been frequently committed, to the great detriment and unspeakable loss of many of your Majesty's good subjects, occasioned for want of due presecution of offenders therein and encouragement to such as shall vigorously endeavour the apprehending of such malefactors; For preventing whereof, Be it enacted &c. That from and after the four and twentieth day of June, one thousand, six hundred, ninety eight, all and every person or persons who shall apprehend one or more such thieves or housebreakers, wherein any person or persons shall be dwelling and inhabiting, and prosecute him or them so apprehended and taken, until he or they be convicted of such burglary and robbery, shall have and receive from the Sheriff or Sheriffs of the county where such robbery and burglary shall be made and done, without paying any fee for the same, for every such offender so convicted the sum of ten pounds within one month after such conviction and demand thereof, made by tendering a certificate to the said Sheriff or Sheriffs, under the hand or hands of the Justices before whom such felon or felons shall be convicted, certifying the conviction of such felon or felons for a burglary done within the county of the said Sheriff or Sheriffs, and also that such felon or felons was or were taken by the person or persons claiming the said reward; And in case any dispute shall happen to arise between the persons so apprehending any of the said thieves and robbers touching their right and title to their said reward, that then the said Judge or Justices, so respectively certifying as aforesaid, shall in and by their said certificate direct and appoint the said reward to be paid unto and amongst the parties claiming the same, in such share and proportions as to the said Judge or Justices shall seem just and reasonable; And if it shall happen any such Sheriff or Sheriffs shall die or be removed before the expiration of one month after such conviction and demand made of the said reward, not being paid as aforesaid, that then the next succeeding Sheriff or Sheriffs of the said county shall pay the same after one month after demand and certificate brought as aforesaid, and in case default of payment of the said sum or sums of money shall happen to be made by any of the Sheriff or Sheriffs, such Sheriff or Sheriffs making default shall forfeit to the person or persons to whom such moneys are due as aforesaid double the sum or sums of money he ought to have paid, to be recovered by him or them, or his or their executors or administrators in any of his Majesty's Courts of Record at Westminster by action of debt, bill, plaint or information, wherein but one imparlance, and no essoign, protection, or wager of law shall be allowed, with treble costs of suit by him or them expended in recovery of the same.

§ ii. And be it further enacted, That in case any person or persons shall happen to be slain by any such housebreaker, robber or robbers, endeavouring to apprehend or in making pursuit after such robber or robbers housebreaker or housebreakers, that then the executors or

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administrators of such person or persons, to whom the right of administration of the personal estate of every person so slain shall belong, upon certificate delivered under the hands of the Judge or Justices of the Assize for the county where the fact was perpetrated and committed, or the two next Justices of the Peace, of such person or persons being so slain, which certificate the said Judge or Justices, upon sufficient proof before them made, are immediately required to give without fee or reward, shall receive the sum of ten pounds from the Sheriff or Sheriffs of the county where the said fact was done and committed, and upon failure of payment thereof by the said Sheriff or Sheriffs, double the said sum of ten pounds, to be recovered against him or them, with treble costs of suit, in manner and form as aforesaid.

§ iii. And it is hereby further enacted, That all Sheriffs, their executors or administrators, upon producing such respective certificates, and the receipts for the money by them paid in pursuance of this Act, shall be allowed, and are hereby empowered to deduct, upon their accounting with his Majesty, his heirs and successors, all moneys, other than the double sum and sums of money and costs of suit, which they shall disburse as aforesaid, without any fee or reward whatsoever. Provided always that, if upon the account of any Sheriff or Sheriffs there shall not be moneys enough in the hands of such Sheriff or Sheriffs to reimburse him or them such moneys paid by him or them by virtue of this Act, that then the Sheriff or Sheriffs, having so paid the said moneys shall have the same repaid by the Lord Treasurer or Commissioners of his Majesty's Treasury for the time being out of the revenue of the Crown, upon certificate from the Clerk of the Pipe to that effect, who are hereby required to pay the same.

§ iv. And it is hereby further enacted, That all and every person or persons who so shall take, apprehend, prosecute or convict such house-breaker or housebreakers as aforesaid, as a further reward shall have and enjoy, to his and their own proper use and behoof, the horse, horses, furniture and furnitures, and arms, money and other goods of the said housebreaker or housebreakers, that shall be taken with the said housebreaker or housebreakers, any of his Majesty's right or title, bodies politic or corporate, or the right or title thereunto of the Lord of any manor, liberty or franchise, or of him or them lending or letting the same to hire to any such housebreaker or housebreakers in any wise notwithstanding. Provided always that this Clause, or anything herein contained, shall not be construed to extend to take away the right of any person or persons to such horses, furniture, arms, money or other goods from whom the same were before feloniously taken.

§ v. And be it further enacted, That if any person or persons, being out of prison, shall (from and after the said four and twentieth day of June) commit any burglary, and afterwards discover two or more persons or persons who already hath (*sic*) or hereafter shall commit any burglary, so as two or more of the person or persons discovered shall be convicted of such burglary, such discoverer shall himself have, and is hereby entitled to the King's most gracious pardon, his heirs and successors, for all burglaries which he or they shall have committed at any time or times before such discovery made, which pardon shall be likewise a good bar for any such burglary.

§ vi. And whereas the great fees that are often demanded and received by Clerks of Assize of persons that appear as witnesses against felons, tend very much to the discouraging their conviction, to the great damage of his Majesty's good subjects, To remedy the same for the future, Be it enacted, that no Clerk of Assize, Clerk of the Peace or other

1698. person whatsoever shall demand, take or receive any fee or reward of any person whatsoever, that shall be bound by any Justice of the Peace to appear to give evidence against any traitor or felon, for the discharge of any recognizance for such appearance, or shall demand or receive more than two shillings and sixpence for the drawing any Bill of Indictment against any such felon, upon the pain of forfeiting to the person aggrieved, for every such offence, the sum of five pounds, to be recovered as aforesaid.

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§ vii. And whereas it often happens that Clerks of Assize, Clerks of the Peace, their Clerks or Deputies, do draw Bills defective on purpose, for the lucre of getting new fees, Be it enacted, That if any Clerk of Assize, Clerk of the Peace, or their Clerks or deputies, shall draw any Bill defective they shall draw new Bills without demanding any fee or reward whatsoever, or forfeit the sum of five pounds, to be recovered as aforesaid. *Parchment Collection*. [Brought from the Commons this day. L. J., XVI. 285. The Bill was read 1a on 17 May and a Petition against it (*See* No. 1290) having been presented by the Sheriffs of London the Hearing was appointed but adjourned. L. J., XVI. 296. No further proceedings took place, though a message was sent by the Commons to remind the Lords of the Bill on 23 June. *Ib.* 327].

1286. May 17. Creditors' Relief (Compositions) Repeal Act.—Petition of several Creditors, their Executors, Administrators, Guardians, and Trustees, on behalf of themselves and many other creditors of persons failed before the 17th Nov. 1696. By virtue of agreements and compositions made under the late Act, several of the Petitioners have received considerable sums, which they would otherwise have failed to get, owing to the refusal of some few dissenting creditors, and the incapacity of executors, administrators, guardians and trustees to compound, and much more money may be received by similar compositions now on foot, and partially subscribed and sealed. The Bill will make void the latter compositions, and cause the loss of much composition money, by reason that many of the creditors' executors &c., by whom the same should be subscribed and sealed to make up the number and value required by the late Act, are removed into remote places and cannot be found in a short time. Pray to be heard by Counsel before the Bill pass. *Signed* by Joseph Woolfe and 34 others. *Endorsed* as read this day. L. J., XVI. 288.

[The Bill was brought from the Commons on 3 May; Royal Assent 5 July. L. J., XVI. 271, 343. 9 Will. III. c. 29 Fol. Ed.]

Annexed:—

(a) 6 June. Petition of Theodore Jacobsen, Richard Cocke, Peter Meyer, Thomas Powell, John Bookey and John Parratt, of London, Merchants, on behalf of themselves and other the creditors of David Becceler and Christian Petersen, of London Merchants. The Bill will be very prejudicial to traders in general and the said creditors in particular. Pray to be heard by Counsel against it. *Endorsed* as read this day and rejected. MS. Min.

(b) 10 June. Draft Proviso as follows:—Provided nevertheless that whereas during the late war with France great losses have befallen many merchants trading to parts beyond the seas, who by reason of such losses are disabled to pay their full debts, and who, having debts owing to them by persons residing beyond the seas, and being themselves indebted to such persons, have not as yet been able to make compositions or agreements with

their creditors, Be it therefore enacted by the authority aforesaid that nothing in this Act contained shall extend or be construed to extend to repeal or make void all or any part of the aforementioned Act with respect to such persons as have been merchants trading beyond the seas and have sustained great losses during the late war, and who did withdraw or abscond from their usual places of abode before the 17th day of November 1696, so as the agreements made or to be made by such merchants be made bonâ fide and without fraud, according to the true intent and meaning of the said Act, but that all such persons shall have the benefit of the said before-mentioned Act to all intents and purposes whatsoever, as if this Act had never been made. *Endorsed* as withdrawn this day. [Proposed to be added but withdrawn in Committee. MS. Min.]

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1287. May 17. Impeachment (Goudet and others.)—Engrossment of Commons' Articles of Impeachment against John Goudet, David Barrau, Peter Longneville, Stephen Seignoret, Reney Baudowin, Nicholas Santiny and Peter Diharee, Merchants, and John Pearse, Gentleman. *Parchment Collection*. [Brought from the Commons this day, and read on the 18th. L. J., XVI. 289. *In extenso*.]

1288. May 19. *Tilsley v. Wright*.—Petition and Appeal of Thomas Tilsley and Ann Pottinger, widow. Richard Tilsley, late of London, merchant, father of the male, and former husband of the female Petitioner, willed in Dec. 1675 all his personal estate, except a few legacies, to Petitioners and his daughter Elizabeth, since deceased, but made his cousin John Tilsley and his co-partners Edward Philips and William Pemberton his executors, and died in Oct. 1677 leaving 1,131*l.* 10*s.* 9*d.* ready money in his dwelling house in Coleman St., and a larger sum in bags at his warehouse in the Welsh Hall, which was found there by the landlords of the Hall, the Governor and Presidents of Christ's Hospital, and secured by them at Christ's Hospital for the benefit of the persons interested. On 13 Nov. 1677 an inventory was taken of the estate, wherein the 1,131*l.* 10*s.* 9*d.* was particularly mentioned, and the rest (excepting some household goods and securities) was expressed under the general name of the testator's stock in trade and his part of the profits thereof. The moneys found in the Welsh Hall could not be specified, no account thereof being taken till 2 Feb. following, when they were found to amount to 2,012*l.* 2*s.* 6*d.* This sum was handed over to the executors, who afterwards paid 1,100*l.* to the Petitioner Ann in part payment of her share, and laid out 1,110*l.* more in purchasing lands for the Petitioner Thomas, as directed by the testator, Elizabeth being then an infant. The executors kept the rest in their hands till 1691, when, Elizabeth being dead, Petitioners brought a Bill in Chancery against them for an account. John Tilsley, the principal acting executor, dying after putting in his answer, Petitioners brought a Bill of Revivor against Respondent, his executrix, and the L. Keeper, now L. Chancellor, on 23 May 1693 decreed her answerable for the estate, so far as it would extend, and directed an account. The Master reported that 6,540*l.* 12*s.* 6*d.* (including the 1,131*l.* 10*s.* 9*d.* and 2012*l.* 2*s.* 6*d.*) had come into John Tilsley's hands, and that at his death, after deducting what he had paid and disbursed, 1,179*l.* 8*s.* 10*d.* was due to Petitioners by Respondent out of the 1,237*l.* 3*s.* 10*d.* assets which came to her hands. Respondent put in an exception to the Report, insisting that the 1,131*l.* 10*s.* 9*d.* ready money in the inventory was included in the 2,012*l.* 2*s.* 6*d.* found at the Welsh Hall. The Lord

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Keeper, by the consent of the Petitioners' Counsel, which was given without their authority, directed a trial at law on this issue, which was tried before C. Justice Holt, when, the jury being misled, as two of them are prepared to swear, by an alleged pocket-book of John Tilsley, which was not proved and was not evidence, agreed to give a verdict against Petitioners, seeing which, their Counsel suffered a nonsuit. The Lord Keeper refused to grant a new trial, unless the Judge would certify his opinion for it, which the latter refused to do, on the ground that he should have been applied to for it when the case was fresh in his memory. The Lord Keeper accordingly on 9 Nov. and 9 March 1696 ordered that the sum of 1,131*l.* 10*s.* 9*d.* should be taken as included in the sum of 2,012*l.* 2*s.* 6*d.*, and the Master, deducting the 1,131*l.* 10*s.* 9*d.* from the 1,179*l.* 8*s.* 10*d.* in his former report, reported only 47*l.* 18*s.* 1*d.* to be due by Respondent to Petitioners, which last report was confirmed by orders of 6 May and 29 June 1697. Appeal from the last four orders. *Signed* by Appellants; *Countersigned* Wm. Whitlock [Whitelocke] and J. Hooke.* L. J., XVI. 291. [At the Hearing on 22 June *Sir Bartholomew Shore* and *Mr. Beresford* were heard for the Appellants. *Sir Thomas Powys* (for the Respondent). It is set on foot after twenty-one years. *Mr. Northey* was also heard for the Respondent. *Mrs. Pottinger* was heard in person. The Appeal was dismissed. MS. Min. L. J., XVI. 325.]

Annexed:—

- (a) 26 May 1698. Answer of Angelet Wright, Widow and Executrix of John Tilsley, deceased. Denies that the L. Chancellor ever declared his opinion that the two sums were distinct sums. Prays that the Appeal may be dismissed with costs. *Signed* Angell Wright; *Countersigned* T. Powys. *Endorsed* as brought in this day.

1289. May 23. Wyndham's Estate Act.—Affidavit of William Wells and Robert Bevis that Dame Rachel Speke, widow of Sir George Speke, late of Haslebury, co. Wilts, had the annexed abstract read to her and consented to the passing of the Bill. *Sworn* 14 May 1698. [Read this day in Committee. Com. Book. The Bill was brought from the Commons on 2 May. Royal Assent 5 July. L. J., XVI. 270, 344. 10 Will. III. c. 106 in Long Cal.]

Annexed:—

- (a) 23 May. Abstract of the Bill. [Appended to preceding.]
 (b) 23 May. Affidavit by John Mascoll of Fairfield, in the parish of Stogursey, co. Somerset, of consent of Nathaniel Palmer, of Stogursey, and Frances, his wife. *Sworn* 11 May 1698. [Read this day in Committee. Com. Book.]
 (c) 23 May. Affidavit by the said John Mascoll of consent of Sir Halswell Tynte, Bart, of Halswell, co. Somerset. *Sworn* 11 May 1698. [Read this day in Committee. Com. Book.]
 (d) 23 May. Affidavit by William Stone, of the parish of St. Decumans, co. Somerset, of consent of the said Nathaniel Palmer and Frances, his wife. *Sworn* 11 May 1698. [Read this day in Committee. Com. Book.]
 (e) 23 May. Affidavit by the said William Stone of consent of the said Sir Halswell Tynte, Bart. *Sworn* 11 May 1698. [Read this day in Committee. Com. Book.]
 (f) 23 May. Abstract of the Bill. [Appended to the four affidavits.]

* These names are all copied.

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1290. May 24. Housebreaker's Bill.—Petition of Sir Bartholomew Gracedieu and Sir James Collett, Sheriffs of London and Middlesex. By two late Acts of Parliament a Sheriff is obliged to pay 40*l.* for apprehending and convicting every highwayman, clipper, or coiner, within a month after demand and tendering the Judge's certificate of the conviction, or be liable to pay double the sum with treble costs, and if, upon the Sheriff's accounting, he has not sufficient in his hands of the profits of the County to reimburse him, he is to be paid the single reward by the Lords of the Treasury out of the revenue of the Crown.* The rewards payable in Middlesex are very considerable, owing to the large number of convictions, and the Sheriffs of Middlesex lay out in other disbursements for his Majesty's service more money than the profits of the County will defray, there being many liberties in the County which claim the greatest part of such profits, so that the Sheriffs have been forced to satisfy such rewards out of their own money. Petitioners understand that the Bill obliges the Sheriffs in like manner to pay 10*l.* for convicting any one for burglary. Pray to be heard by Counsel. L. J., XVI. 296. [See Note to No. 1285.]

1291. May 25. Blasphemy and Profaneness Suppression Act.—Commons' Reasons for not agreeing to the Lords' Amendments to the Bill. [Agreed to by the Commons 21 May. C. J., XII. 280. *In extenso*: reported to the Lords from the Conference this day. L. J., XVI. 298. The Bill was brought from the Commons on 31 March; Royal Assent 5 July. L. J., XVI. 252, 343. 9 Will. III. c. 35 Fol. Ed.]

1292. May 25. Africa Trade Act.—Petition of the Planters of Virginia and Maryland, and the Merchants trading thereto, praying to be heard by Counsel against the Bill for settling the trade to Africa. Signed by Benjamin Harrison and 17 others. *Endorsed* as read this day. L. J., XVI. 297. The Bill was brought from the Commons on 23 May. The Petitioners were heard in Committee on 9 June. Royal Assent 3 July. MS. Mia. L. J., XVI. 294, 343. 9 Will. III. c. 26, Fol. Ed.]

Annexed:—

(a.) 26 May. Petition of the Planters and Merchants concerned in the Island of Jamaica, in behalf of themselves and others the Planters in the said island. Pray to be heard by Counsel against the Bill. Signed by Gilbert Heathcote and 17 others. *Endorsed* as read this day. L. J., XVI. 299.

(b.) 27 May. Petition of the Planters and Merchants of his Majesty's Caribby Islands in America. The Royal African Company has been at great expense to erect and maintain their forts and castles, without which the trade might have been lost, and cannot be protected or carried on for the future. The Company, by means of their joint stock, have always given large credit to the Plantations, which has enabled several Planters, otherwise poor, to settle and improve their estates, which otherwise must have lain waste, to the loss of the King's duties and customs. The Bill allows all persons to trade to Africa that please, on payment only of a certain percentage on all goods exported and some imported (negroes excepted), to be applied towards maintaining and defraying the charges of the said forts, &c. This freedom of trade, it is presumed, may cause

* See 4 Will. & Mary, c. 8, and 6 and 7 Will. III., c. 17, secs. 9, 10, 11.

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such emulation between the Company and other traders, that the trade will be supported and defended, and the Plantations in general better supplied with negroes, the only foundation of all planters, at lower rates and with a longer credit than ever. Pray that the Bill may pass. *Signed* by John Vernon and 8 others. *Endorsed* as read this day. L. J., XVI. 300.

(c) 28 May. Petition of Edward Carleton, of London, Merchant. The Bill provides that all ships with their ladings are to be forfeited which sail from England after 21 June, and from the Plantations in America after 1 August next, without having entered and paid the duties enjoined, or which shall sail to Africa from any other parts than directly from England or the said Plantations. Petitioner sent out a ship lately on a trading voyage, and therein also laded a cargo of goods and merchandises proper for Africa, to purchase negroes to carry to the Northern Plantations in America, but ordered the ship to trade abroad so long that she might not arrive from Guinea till after the winter should be over, it not being proper to bring negroes to those cold countries in that season. As the Bill now stands, Petitioner may be subject to the forfeiture of his ship and goods, unless some provision be made to prevent it. Prays to be heard before the Bill pass. *Endorsed* as read this day. L. J., XVI. 301.

(d) 28 May. Petition of the Corporation of Copper-miners in England, and divers others concerned in the making of English copper. Petitioners have at extraordinary expense fully attained to the art of making copper in as great perfection as what has been heretofore imported from Sweden, and in such quantities as more than supply the home consumption, having been obliged to export a great deal to Holland for want of sale here. The Clause added to the Bill, for exporting copper bars, will greatly discourage the copper-making in England, and is unnecessary, because English copper bars may be bought as cheaply as they can be imported from Sweden. Pray that the Clause may not pass. *Signed* William Cowper, Samuel Davis and William Hateb, for themselves and the copper works of Upper Redbrooke, co. Gloucester, Corbeck, co. Cumberland, and Alderley Edge, co. Cheshire, respectively, Thomas Clarke, for the works at Bristol, and Robert Lancashire, for the Governor and Company of Copper Miners in England. *Endorsed* as read this day. MS. Min.

(e) 30 May. Petition of several Planters in behalf of themselves and the rest of the Planters concerned in the Island of Barbados. The Bill imposes a great duty on the trade of negroes, whereon the welfare of the plantation depends, and is otherwise prejudicial to the island and to the trade of it and England. Pray to be heard by Counsel before the Bill pass. *Signed* Will. Booth, Rich. Guy, Sam Barwick, Mol. Holder, N. Blakiston. *Endorsed* as read this day. L. J., XVI. 305.

(f) 30 May. Petition of the Planters and Merchants concerned and trading to the Island of Barbados. The trade to Africa cannot be maintained without forts and castles, the charge of which will best be borne by permitting all persons, as the Bill proposes, to trade to Africa at a moderate duty on exportation and importation of goods, negroes and gold excepted. The Company and other traders will thus trade on equal terms, and the Plantations will be supplied with negroes at easier rates. Pray that the Bill may pass. *Signed* by Gyles Heysham and 14 others. *Endorsed* as read this day. L. J., XVI. 305.

(g) 30 May. Petition of the Mayor, Aldermen and Common Council of the City of Bristol, also of the Society of Merchant Adventurers within the said City. The support of the Plantations in America is of great concern to the trade and wealth of this Kingdom, as they furnish it with a large product, whereby the Revenue is increased and navigation encouraged. This product is raised by the labour of African negroes, and the Plantations flourish according to the number of slaves so imported. The tax of 10 per cent. proposed to be put on traders to Africa will be very detrimental to the Plantations and to Petitioners. Pray their Lordships to leave the trade for negroes free from Cape Blanco to Angola. *Signed* by John Bubb, Mayor, and 32 others. *Endorsed* as read this day. L. J., XVI. 305. 1698. — No. 1292

1293. May 26. Foubert v. De Cresserons.—Petition and Appeal of Magdalen Foubert, Widow. Petitioner's son, Peter Lorin de Granmare died intestate in July 1693 in Flanders, in his Majesty's service, possessed of about 600*l.*, leaving his wife Katherine *enceinte* of a daughter. Katherine, who by law became entitled to a third part of her husband's estate, never took out letters of administration, and under pretence of an agreement executed after marriage by her late husband, claimed the whole estate, and being near the time of her lying in, made a Will in French on 16 Nov. 1693 bequeathing all her property to her son, if born, whom she commended to the care of Madam Foubert, her sister Lorin and Mr. Le Bas; and by a later codicil, in case her child as well as herself should die, she left her estate, after payment of certain legacies, to her sister-in-law Lorin and Mr. De Cresserons in equal shares. Katherine was delivered of a daughter, and died a few hours after, and Petitioner and Le Bas and Mrs. Lorin took administration in trust for the child during its minority, and Petitioner took care of the child, who died after two years, when Petitioner, as grandmother, had letters of administration granted to her and became entitled to the estate. De Cresserons, claiming a moiety of the surplus of Katherine's estate under the codicil, brought a Bill in Chancery against Petitioner and Margaret Lorin, on the ground that the infant died before being capable of disposing of the estate, and the Court decreed in his favour. This decree is wrong, as it was clearly the testatrix's intention that the codicil should only take effect if the child died during her lying in. Prays that the Decree may be reversed, the Respondents ordered to answer, and all proceedings stayed. *Signed* by Appellant; *Countersigned* T. Powys, E. Jennings. L. J., XVI. 229. [At the Hearing on 17 June Mr. Serjeant Wright and Sir Thomas Powys appeared for Appellant and Sir Bartholomew Shore and Mr. Pooley for Respondents. MS. Min. Appeal dismissed. L. J., XVI. 321].

Annexed :—

(a) 6 June 1693. Answer of Charles De Cresserons. The testatrix was well entitled to the whole estate upon her husband's death, by virtue of the agreement made before the marriage was solemnized, and Respondent, upon the death of the child since her mother and before attaining to full age, became entitled to the moiety devised by the testatrix. Prays that the Appeal may be dismissed with costs, as vexatious. *Signed* by Respondent; *Countersigned* Da. Foucault. *Endorsed* as brought in this day.

(b) 8 June. Answer of Margaret Lorin, Spinster. Peter Lorin de Granmare, Respondent's brother, was killed in Flanders.

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The Decree is just and according to the intentions of testatrix, and Respondent is entitled to her moiety. Prays that the Appeal may be dismissed with costs. *Signed* by Respondent; *Countersigned* Hen. Penton. *Endorsed* as brought in this day.

1294. May 26. Cecill's Estate Act.—Draft of an Act for vesting certain lands and hereditaments in Maidstone and elsewhere in the County of Kent in trustees for the benefit of Diana Cecill and her heirs. No amendments in either House. [Read 1^a this day; Royal Assent 5 July. L. J., XVI. 299, 343. 10 Will. III., c. 89 in Long Cal.]

Annexed:—

(a) Duplicate of proceeding, signed Diana Cecill, Rob. Cecill, W. Salisbury, as consenting to the Bill, Da. Richards, witness.

1295. May 27. Hawkes's Estate Act.—Consents of G. Pulley, Priscilla Pulley, Mary Pulley, Nat. Dawes, John Hawkes, Abigail Hawkes, John Briscoe, Anne Briscoe, Francis Evans, Dorothy Evans and John Harriotts to the passing of the Bill for sale of lands in Salop for payment of John Hawkes's debts. [Probably read in Committee this day, when the Bill was considered and ordered to be reported. Com. Book. The Bill was brought from the Commons on 14 April; Royal Assent 5 July. L. J., XVI. 262, 344. 10 Will. III. c. 102 in Long Cal.]

1296. June 3. Garon's Naturalization Act.—Certificate that the following persons received the Sacrament, according to the usage of the Church of England, on 8 May 1698 in the parish Church of All Hallows, Barking, London, viz^t:—

Peter Garon.	James Lecaron.
Jacob Contris	John Hardouin.
Peter Vallete.	Martin Nipoore.
Paul Boucher.	Matthew Forestier.
Stephen Godin.	Godeon Laubrume Le Compte.
James Mantra.	Lewis Jourdain.
Abraham Monfort.	Cornelius Denys.
Peter Sené.	Miehell Decause.
Adrianut Denise.	Theodore Solié.
David Faure.	Hiddo Lofting.
Abraham Delaneufvemaïson.	Francis Bourgeois.
Claude Baudouin.	Stephen Mahieu.

Signed John Gaskarth, Minister, and William Crouch, Churchwarden. [Read this day in Committee. Com. Book. The Lords' Amendments consisted of the addition of three names to the number of persons to be naturalized. (*See* annexes (c) and (d) below.) The Bill was brought from the Commons on 23 May; Royal Assent 5 July. L. J., XVI. 294, 343. 10 Will. III. c. 94 in Long Cal.]

Annexed:—

(a) 3 June. Certificate of John Bubb, Esq., Mayor of Bristol, that on 7 May 1698 Alexander Descairac and Jeremiah Finel, Ministers of the French Church in the City, conformable to the Church of England, made oath to him that they had known Mr. Lewis Casemajor for the last four years, he having frequented the said Church and received the Sacrament there, particularly at Easter last; that he is a man of unspotted reputation, and that they were satisfied by undoubted testimony that he is a Frenchman, born of Protestant parents in the province of Bearn, and came over to have the free exercise of his religion. *Dated* 7 May 1698. *Signed* by Bubb, Descairac, and Finel. [Read this day in Committee. Com. Book.]

(b) 3 June. Certificate that William Theophilus Wildigos received the Sacrament, according to the usage of the Church of England, on 8 May 1698 in the parish Church of St. James', Westminster. *Signed* Will. Wake, Rector, Hum. Dudson, Churchwarden. *Dated* 8 May 1698. *Attested* by Robert Cooling and James Irvine. [Read this day in Committee. Com. Book.]

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(c) 3 June. Certificate that Mr. David Langenmantel from Augsburg, and Mr. John Baptista Shorer from Hamburg, are members of the true Protestant High German Lutheran Church in London, and that on the 15th instant they received the Sacrament there, according to the settled constitution of that Church. *Signed* Esdras Edzard, Minister, Theodore Jacobsen, Peter Willoke, Clerk, Johan Paul Korner. *Dated* 16 May 1698. [Probably read this day in Committee when the names were added to the Bill.]

(d) 3 June. Certificate that William Bichot, of the Parish of St. Dunstan's, Stepney, received the Sacrament, according to the usage of the Church of England, in the parish Church of St. Peter's, Cornhill, on 22 May 1698. *Signed* Will. Beveridge, Minister, Tho. Manning, Churchwarden. *Dated* 22 May 1698. *Attested* by John Gentrey, of St. Peter's, Cornhill. [Probably read this day in Committee, when the name was added to the Bill.]

1297. June 3. Hayward *v.* Beastall (In Error).—Writ of Error with return of C. J. Holt endorsed thereon. Appended to it are a Suggestion of Error, Writ of *Certiorari* endorsed with Answer of C. J. Holt, Answer to the Suggestion of Error, and Transcript of Record.

Francis Beastall sued Robert Hayward and others for damage done to his meadow at Wensley, Derbyshire, by grazing beasts on his grass and trampling it down and by digging pits in the meadow, thus depriving him of the produce of his land. The defence was that in the wapentake of Wyrksworth the custom had existed from time immemorial that anyone might sink pits for lead ore where there was a presumption that lead ore might be found, that a right of access for horses carts, &c., could be claimed, and also a right to wash lead ore on the spot, and that these rights existed in the case of this particular meadow, there being an old lead mine there. Beastall maintained that Hayward and the other plaintiffs had exceeded their rights, and recovered 10*l.* from them. *Parchment Collection*. [Brought in this day. L. J., XVI. 308. No further proceedings, though a day was fixed for the Hearing.]

1298. Wood *v.* Deane (In Error).—Writ of Error with Return of Chief Justice Holt endorsed thereon, &c., similar to preceding paper. James Deane and William Wragge sue Hester Wood and others for damage done to a meadow at Wensley, Derbyshire, the circumstances being similar to those in the preceding case. *Parchment Collection*. [Brought in this day. L. J., XVI. 308. No further proceedings.]

1299. June 3. Creditors Further Relief (Escapes) Bill.—Commons' Engrossment of an Aet for the further relief of creditors in cases of escapes and for the further preventing escapes and other abuses in the keepers of gaols.

§ 1. Whereas in an Aet of the last Sessions of this present Parliament, intituled An Aet for the more efficient relief of creditors in cases of escapes, and for preventing abuses in prisons and pretended privileged

1698. places, amongst other things therein contained, it is enacted, that from and after the first day of May, one thousand, six hundred, ninety-seven, —
 No. 1299. all prisoners, either upon contempt or mesne process or in execution, who are or shall be committed to custody of the Marshal of the King's Bench prison or Warden of the Fleet, shall be actually detained within the said prisons of the King's Bench and Fleet, or the respective Rules of the same, until they shall be from thence discharged by due course of law; and if at any time from and after the said first day of May the said Marshal or Warden or any other keeper or keepers of any prison shall permit and suffer any prisoner committed to their custody, either on mesne process or in execution, to go or be at large out of the Rules of their respective prisons (except by virtue of some writ of Habeas Corpus or Rule of Court, which Rule of Court shall not be granted but by motion made, or petition read in open Court) every such going or being out of the said Rules shall be adjudged and deemed, and is thereby declared to be an escape; And whereas in the said Act it is further enacted, that from and after the said first day of May every person or persons obtaining judgment in any action of escape against the said Marshal or Warden, or their respective lawful deputy or deputies, shall and may have not only the several remedies already by law allowed for obtaining satisfaction thereon, but the Judges of the respective Courts where such judgment shall be obtained, upon oath before them made by the person or persons obtaining such judgment that the same was obtained without fraud or covin, and that the debt of the prisoner making such escape was a true and real debt and unsatisfied, shall, upon motion made to them in open Court for that purpose, sequester the fees and profits of the office of Marshal and Warden, or so much of such part or proportion thereof as the said Court, wherein such motion shall be made, shall think fit and reasonable, with respect to the debt or debts due from such prisoner or prisoners so escaping, and in the first place apply the same towards satisfaction of the debt or debts due from the prisoner or prisoners who escaped, together with all costs and damages recovered in such action of escape; the which said law is like to be of little or none effect by reason of the several savings of the pretended rights of several persons as mortgagees, particularly named in the said Act, in and to the said offices of Marshal of the King's Bench and Warden of the Fleet respectively, some of which pretended mortgages are all or the greatest part thereof paid and satisfied, and yet are notwithstanding kept on foot purposely to prevent those who shall obtain sequestrations by virtue of the said Act from receiving any benefit of such sequestrations, and by reason of some other defects in the said law; For remedy whereof, Be it enacted, &c., That all and every person and persons who pretend any right as mortgagees, or those who pretend any right by, from or under them or either of them, in or to the said Offices of Marshal of the King's Bench prison or Warden of the Fleet prison, or to any of the rents and profits of the said respective prisons, shall, on or before the thirteenth day of July, one thousand, six hundred, ninety eight (excepting the privilege of peerage) make oath before the Chief Justices and other Justices of the several Courts of King's Bench and Common Pleas how much money is truly and *bonâ fide* (to the best of their knowledge and belief) due upon the said mortgage or mortgages, and the Chief Justices and other Justices of the said several Courts and their successors, Justices of the said Courts for the time being in the said respective Courts, shall and are hereby required, upon motion made by any person who shall have a right by virtue of the said Act to any sequestration of any of the said profits of the said respective prisons, in open Court to

examine upon oath the said Marshal or Warden, their deputy or deputies, or any other witnesses, how much money is really and *bonâ fide* due upon the said mortgage or mortgages; and the said Justices shall also examine the several titles in or to the said respective offices and profits of the said respective prisons of the persons whose rights in the said Act are saved; and if any person or persons, or those claiming by, from or under them or either of them, whose rights are saved by the said Act, shall not, on or before the day hereby appointed, make such oath as aforesaid, then the rights of such person or persons are hereby made and declared to be forfeited and extinguished, and the said Justices are hereby authorized and required from time to time to sequester the rents and profits of the said offices, and to cause the same to be applied towards satisfaction of the moneys due and owing upon the said estates and titles saved as aforesaid, or any of them.

§ ii. And be it further enacted, by the authority aforesaid, That from and after such time as the money due and owing upon the estates and titles, in the said Act mentioned to be saved, is fully paid and satisfied, or by any other means well and sufficiently secured, the Justices of the said respective Courts may and shall sequester all the rents and profits of the said offices for satisfaction of debts recovered upon escapes, as in the said Act is appointed, any of the said estates, titles or interests in the said Act mentioned to be saved, or any matter, clause or thing in the said Act contained to the contrary thereof in any wise notwithstanding.

§ iii. Provided always, that the said Justices may allow out of the rents and profits of the said offices such reasonable salary to such person and persons as shall actually exercise the said respective offices as the said Justices shall think fit, not exceeding at the most one-third part of the rents and profits of the said offices respectively; and to the end that the said debts upon the said offices may be sooner cleared and discharged, and that the said sequestrations may be made effectual to the said creditors and the benefit thereof more easily obtained, Be it further enacted by the authority aforesaid that the said Marshal of the King's Bench and the said Warden of the Fleet for the time being, by themselves or their respective deputies, shall from time to time receive all the rents reserved or payable, or that from time to time shall be reserved or payable, out of or for any dwelling-houses or cellars, shops, chambers or other rooms of or belonging to the said offices or either of them, and of all fees due or usually taken by the said officers respectively or any of their agents or deputies, and shall monthly and every month, or oftener upon request made, pay or cause to be paid the said rents, fees and profits so reserved to all and every person and persons, their respective attorneys or agents, as their debts are or shall become due and payable by virtue of any mortgage or sequestration, and the said Marshal and Warden, their respective deputies or agents, shall also in a book or books respectively to be kept for that purpose, make weekly and every week true entries of all the said rents, fees and profits to the said respective offices belonging, or shall grow due, and the said Marshal and Warden, or their respective deputies or agents, are hereby required to produce and show forth the said book or books, and all the entries therein made, unto any person or persons, their respective attorneys or agents, who are entitled to any debt by mortgage or sequestration of the said respective offices or the rents or profits thereof, and also to any person or persons, their attorneys or agents, who shall or have obtained judgment in any action of escape pursuant to the said recited Act of Parliament when and as often as they or either of them shall reasonably require.

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§ iv. And in case the said Marshal or Warden, or their respective deputies or receivers, so long as they are empowered to receive the profits of the said offices, shall refuse or neglect to receive the said rents, fees and profits to the said respective offices belonging, or shall neglect or refuse to pay the same when received, according to the directions of this present Act, or if the said Marshal or Warden, or their respective deputies, shall refuse or neglect to produce and show the said book or books and entries therein when thereto required as aforesaid, and to suffer the same to be inspected and examined, according to the true meaning of this Act, the said Marshal or Warden shall for every such refusal or neglect, upon oath thereof made by two credible witnesses, be committed by the Justices of the said respective Courts to his Majesty's Gaol of Newgate, there to continue without bail or mainprise for the space of three months, and the Keeper of the said Gaol of Newgate for the time being shall, upon every such commitment, receive the person so committed and him detain and keep in close imprisonment in the said Gaol of Newgate during the said space of three months.

§ v. And in case any of the said persons that have obtained judgment in any action of escape as aforesaid shall suspect that all rents, fees and other profits of the said offices are not duly and truly entered into the said book, in such case the Lord Chancellor of England, or Lord Keeper of the Great Seal of England, or Master of the Rolls for the time being, or the Justices of the said respective Courts, shall and may in a summary way examine the said Marshal and Warden, their deputies, under-officers or agents, and all others therein concerned, upon interrogatories to be exhibited into the High Court of Chancery or the said Courts of Kings (*sic*) or Common Pleas, in writing by the person or persons in that behalf complaining, touching the said entries, and touching the rents, issues and profits of the said offices by them or any other person by their order or to their use had and received, for the full and perfect discovery of the truth thereof; and if, upon such examination, the said officers or any of their agents, deputies or others, shall wilfully forswear him or themselves, every person so forswearing himself and being thereof convicted by due course of law, shall suffer such corporal punishment by pillory and otherwise as by the laws may be inflicted on persons convicted of wilful and corrupt perjury, and shall also suffer imprisonment in the said Gaol of Newgate without bail or mainprise for the space of six months.

§ vi. And be it further enacted by the authority aforesaid, That if the said Marshal or Warden shall permit or suffer any voluntary escape of any person that shall be committed to their respective prisons, and shall be convicted thereof upon any indictment, information or other due course of law, the said Marshal or Warden so convicted shall forfeit double the sum or sums he shall be charged with at the time of such escape to the party grieved, to be recovered by action of debt, bill, plaint or information in any of his Majesty's Courts of Record at Westminster, wherein no essoign, protection, privilege, or wager of law shall be allowed, nor any more than one imparlance, and shall be for ever disabled to execute the said office of Marshal or Warden by himself or deputy.

§ vii. And be it also further enacted by the authority aforesaid, That if the said Marshal or Warden shall not, upon request of the creditor or creditors or the major part of them in number and value, within three months after any person or persons, body politic or corporate, shall have obtained any judgment against him upon any escape by him permitted, satisfy the debt or damages for which such

judgment is given, or assign to the Plaintiff or Plaintiffs therein the security taken by such Marshal or Warden for the true imprisonment of the person escaped, in every such case all and every judgment, bond and other security given to such Marshal or Warden, or any other person or persons in trust for him, or by his order or appointment, in any manner however, for the true imprisonment of the prisoner escaped, or for any ease or favour to be showed to such prisoner, or for chamber-rent or other fees, shall be void to all intents and purposes whatsoever; and in ease the said Marshal or Warden shall assign over any such security as aforesaid, it shall not be in the power of such Marshal or Warden, after such assignment, without the privity and consent of the assignee, to release or discharge such security, or any process, suit, action or execution thereupon, to be had or prosecuted in his name.

§ viii. And whereas Sir John Cutler, Baronet, deceased, did advance and lend unto William Lenthall, Esquire, several sums or sums of money upon a mortgage on two estates called Great Hazley and Latchford, in the county of Oxford, and of the profits of the office of Marshal of the Marshalsea of the Court of King's Bench, To the end, therefore, the said debt may be the sooner cleared, and sequestration to creditors more effectual, Be it further enacted by the authority aforesaid, That the said two estates shall be sold to the best purchaser towards payment of the said debt due to the said Edmund Boulter, Esquire, and upon motion made in his Majesty's Court of Chancery by the next subsequent mortgagee or sequestrator, who are or shall be entitled to the profits of the said office by virtue of any mortgage or sequestration upon which motion the Lord Chancellor of England, Lord Keeper, or Master of the Rolls for the time being, shall appoint some one or more Master or Masters in Chancery to sell the said estates, who shall, and are hereby required to, sell the same with all convenient speed to the best purchaser, and apply the money received from or by sale of such estates to the said Edmund Boulter or his assigns on account of such mortgage money due to him or them as aforesaid; And if the moneys arising by sale of such estates shall fall short of paying the just debt or debts due to the said Edmund Boulter or his assigns, then the remainder to be paid (in such manner as this Act directs) out of the first rising rents and profits of the office of the Marshal of the Marshalsea of the King's Bench prison.

§ ix. Provided always, that nothing in this Act contained shall extend or be construed to extend to prejudice, impeach, lessen or avoid the right, title, interest, equity, claim or demand which George Moor, of London, Merchant, hath of, in, or to the manor or lands called Great Hazley in the county of Oxon, and the premises thereunto belonging, or any part thereof, anything herein before contrary (*sic*) notwithstanding.

§ x. Provided nevertheless, that nothing in this Act contained shall extend to prejudice, impeach or lessen any security or securities for any sum or sums of money made or given by or out of the said office of Marshal of the Marshalsea of the Court of King's Bench, or the profits thereof, by William Lenthall, Esquire, to Sir John Cutler, Baronet, deceased, or to Edmund Boulter, Esquire, Executor of the said Sir John Cutler, or to any other person or persons in trust for them or either of them, or to subject the said office, or the profits thereof, or the person or persons in whom the same are or shall be vested, to any of the forfeitures or penalties in this Act contained, other than such as they are or may be liable unto before the making of this Act, until such sum or sums of money secured thereby shall be fully satisfied and paid, anything in this Act contained to the contrary thereof notwithstanding.

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§ xi. Provided always that this Act, or anything herein contained, shall not be extended to alter, abridge or avoid such right, title, estate, equity, interest and demand as Martha Johnson, widow, Thomas Johnson and John Johnson, sons of the said Martha, and Francis, her daughter, their heirs, executors, administrators and assigns, now have or shall or may have, challenge or claim of, in or unto all or any of the houses and shops belonging to the office of the Warden of the Fleet, or to the prison of the Fleet, hereinbefore contained.

§ xii. Provided always, and it is hereby further enacted and declared, that neither this Act nor the said former Act made in the eighth and ninth years of his present Majesty's reign, nor anything in this nor the said former Act contained, shall extend or be construed or taken to extend to obstruct, hinder or defeat Thomas Seviar of London, Gentleman, of the benefit of certain Articles made and bearing date the twenty fifth day of November in the year one thousand, six hundred, eighty and four, between William Lenthall, Esquire, and him, the said Thomas Seviar, for the granting of the said office of Marshal of the Marshalsea of the Court of King's Bench by him, the said William Lenthall, to the said Thomas Seviar, and that the Court of Chancery shall or may proceed to the final hearing and determining of the cause lately depending in the said Court upon the said Articles relating to the said office between the said parties and others, according to equity and justice, without regard to be had to any dismissal or decree had, made, or decreed or pronounced in the said cause since the making of the said Act in the eighth and ninth years of his Majesty's reign, to all intents and purposes as if no such order, decree or dismissal had been made, declared or pronounced.

§ xiii. Provided always that nothing in this Act contained shall extend or be construed to extend to alter, abridge, or avoid such right, title, estate, equity, interest and demand as Richard Shore and Elizabeth his wife, and Thomas Holmden and Mary his wife, daughters and administratrixes of Anthony Smith, late of Rotherhithe, in the county of Surrey, mariner, deceased, their heirs, executors, administrators and assigns, now have or shall or may have, challenge or claim, of, in or unto all or any of the house and shops belonging to the office of the Warden of the Fleet, or to the prison of the Fleet, hereinbefore contained.

§ xiv. Provided also that nothing in this Act contained shall extend to impeach, diminish, prejudice, or destroy the right, title, interest or estate of Thomas Bromhall, an infant, in him vested, of, in or to the said office or premises by virtue of an Act of Parliament, made in the fifth year of His Majesty's reign and the late Queen, for the sale of the said office and premises, or otherwise howsoever, anything herein contained to the contrary thereof in any wise notwithstanding.

§ xv. And be it further enacted by the authority aforesaid, That, from and after the four and twentieth day of June, one thousand six hundred ninety and eight, no Judge, by himself, or any other for him, shall take or receive any gratuity or reward of any gaoler, marshal, warden, or prisoner of the King's Bench or Fleet prison, upon pain of forfeiting of his office of Judge. *Parchment Collection.* [Brought from the Commons this day. L. J., XVI. 308. On June 9 a Petition was presented against the Bill by John Clement (No. 1301). On 27 June, a Petition of George Norcott and David Williams (No. 1301) having been presented against the Bill, the House went into Committee. Counsel were heard against the Bill for E. Radnor and Mr. Sayer. On 1 July a Petition of Elizabeth Leave against the Bill was presented and referred to the Select Committee. MS. Min. L. J., XVI. 330, 336. No further proceedings.]

1300. June 8. Impeachment (John Du Maistre and John Aurioll).— Engrossment of Commons' Articles of Impeachment against John Du Maistre and John Aurioll. [Brought from the Commons this day. L. J., XVI. 312. *In extenso*. They were ordered into custody on the same day. *Ib.* 313. On 27 June Du Maistre was allowed to have Counsel assigned him and a copy of the Articles. *Ib.* 330. On 30 June he pleaded guilty and was ordered into custody, but, in reply to inquiries by the Commons about Aurioll, they were told that he was gone to Holland. *Ib.* 333-4. The Committee appointed to inquire as to the value of the estates of the persons who had pleaded guilty having reported, he was ordered to pay 1,000*l.* and be kept in Newgate prison until he had paid it. *Ib.* 337-8. *See also* No. 1282.]

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1301. June 9. Creditors' Further Relief (Escapes) Bill. Petition of John Clement, Gent. By virtue of a mortgage of the office of Warden of the Fleet, of 23 November 1676, there is owing to Petitioner, and others for whom he is entrusted, the sum of 2,299*l.* principal, besides several years' interest. A clause in the Bill provides that nothing therein shall extend to prejudice any security for any sum made or given by or out of the office of the Marshal of the Marshalsea by William Lenthall, Esq., to Sir John Cutler, deceased, or to Edward [Edmund] Boulter, Esq., his executor, or to any others in trust for them, or to subject the said office or the persons in whom it is vested to any of the penalties or forfeitures in the Bill, other than such as they are or may be liable to before the making of the Act, until such sums secured thereby shall be fully satisfied. Petitioner was out of town when the Bill was before the Commons, and was therefore not heard to it. He is equally entitled to his said mortgage on the Fleet prison, as to the value thereof, as Mr. Boulter is to his debt upon the King's Bench prison. Prays to be heard by Counsel, and that provision may be made for him in the Bill. L. J., XVI. 314. [Read this day and Ordered to be heard at the Committee to whom the Bill stands committed. *See* No. 1299.]

Annexed:—

(a) 10 June. Petition of Cavendish Weedon, Esq. Petitioner is interested in the office of the Warden of the Fleet prison, together with thirteen houses adjoining and the shops in Westminster Hall, in trust for payment of precedent incumbrancers, whose debts amount to several thousand pounds, and afterwards, as to the residue of the purchase money arising by the sale of the premises, as a trustee for Thomas Bromhall, an infant, pursuant to the direction and intention of the Act 5 W. & M. The Bill, as now worded, is likely to prejudice the *cestui que* trust in the said mortgage. Bromhall is now an infant, living in Shropshire, and has only lately had notice of the Bill, and Petitioner as a trustee is equally entitled to the benefit of his trust as Mr. Boulter, for whom provision is made in the Bill, is to his debt on the King's Bench prison. Prays to be heard by Counsel, and that provision may be made for him in the Bill. L. J., XVI. 316. [Read this day and Ordered that the Petitioner or any other persons shall be heard at the Committee to whom the Bill is committed. *See* No. 1299.]

(b) 10 June. Petition of the Warden of the Fleet prison. The office of Warden of the Fleet being an office of inheritance and in mortgage to divers persons for several thousand pounds, the mortgagees are not only in danger to lose their debts, should the Bill pass as now worded, but the execution of the office will be rendered impracticable. Prays to be heard by Counsel. *Signed*

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No. 1301.

William Ford. L. J., XVI. 316. [Read this day and Ordered that the Petitioner or any other person shall be heard at the Committee to whom the Bill is committed. *See* No. 1299.]

(c) 27 June 1698. Petition of George Noreott and David Williams, Gent. Petitioners have obtained two judgments against George Gwynne, Esq., in the Court of Exchequer, for 24*l.* 10*s.* and 22*l.* 10*s.* respectively, debt and costs, upon which he was committed prisoner to the Fleet. Notwithstanding these judgments, William Weedon Ford, the present Warden, permits him to be at liberty. Pray for relief. [Read this day and referred to the Committee. MS. Min. *See* No. 1299.]

(d) 1 July 1698. Petition of Elizabeth Leave, daughter of Mr. Charles Leave, deceased. Petitioner obtained execution about four years since against John Pollexfen for a debt on bond, dated 11 November 1681. Pollexfen has removed himself out of the King's Bench into the Fleet, from whence by bribes he obtained his liberty of the Warden, John Tilley, Esq., and has often upbraided Petitioner, saying that none but fools and beggars continue close prisoners, and that for twenty guineas he could obtain his liberty at any time, there not being an honest man belonging to the Fleet, and that at Christmas last he gave a good piece of money. Petitioner has often applied to Mr. Tilley to confine him, but without success, and some time since, as she was lamenting her condition at the door of the Fleet prison, Mr. Tilley derided her, saying "What good has your petitioning done you? Have you got your money by it? Let you and I kiss it out." Petitioner and her aged mother are thus reduced to starve, the debt, which Pollexfen is well able to pay, being their whole dependence. Prays for relief. *Endorsed* as Petition for Prisons Bill, read this day, and referred to the Committee. L. J., XVI. 336. [*See* No. 1299.]

1302. June 9. Walter's Estate Act.—Certificate of E. Ailesbury, desiring to be left out of the trust intended for his sister, the Lady Mary Walter and her six children by Sir William Walter, her late husband, and authorising his brother Robert Bruce, his co-trustee in Sir William's Will, to consent to the Bill. *Dated* 14 April 1698. *Attested* by Fra. Speight, Ralph Wilson. [Probably produced in Committee, but the Com. Book contains no entry of any proceedings. The Bill was reported this day; Royal Assent 5 July. L. J., XVI. 314, 343. 10 Will. III. c. 87 in Long Cal.]

1303. June 21. Mascall's Estate (Copperas Works) Act.—Draft Clause, marked A as follows:—"And be it further enacted the authority aforesaid, that the said George Barclay and Mary his wife, their Executors and Administrators, be acquitted and discharged of and from all claims and demands for or in respect of any goods, chattels or personal estate late of the said Robert Mascall, the elder, which they or either of them have received or possessed (as to two parts in three thereof equally to be divided), and also of and from all moneys which they or either of them have received of or from the said Robert Mascall, the younger, or of or from the said Robert Hackshaw, by order of the Court of Chancery, in one or more cause or causes there depending for or concerning the said great or new copperas works only." *Endorsed* as rejected this day. [The Bill was brought from the Commons on 27 May. L. J., XVI. 300. In the Committee on 18 June a clause on behalf of Dr. Barclay was read. It was read again on June 21 but

Dr. Barelay did not insist upon it, saying that the mother and guardian promised releases. Com. Book. Royal Assent 5 July. L. J., XVI. 314. 10 Will. III. c. 99 in Long Cal.]

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1304. June 22. Maryland Merchant of Bristol (Ship) Act.—Certificate that the ship called the Maryland Merchant of Bristol, Richard Tounsen, Master, was entered outwards in Bristol port for Virginia on 9 Nov. 1694, and cleared at the Custom House on 8 Dec. following by Richard Burges, who proceeded Master, Tounsen being sick, and that since then the ship has not returned to the said port or, as the undersigned hear and believe, to any other port in England. Signed Wm. Lansdon, Tho. Moore. Dated Custom House, Bristol, 30 May 1698. [Read in the Committee this day. Com. Book. The Bill was brought from the Commons on 10 June: Royal Assent 5 July. L. J., XVI. 316, 344. 10 Will. III. c. 97 in Long Cal.]

Annexed:—

(a) 22 June. Affidavit of William Crabb, William Clarke, Charles Pope and Roger Bagg, all of the City of Bristol, Merchants, that the Maryland Merchant, about 300 tons burthen, now at Virginia, Richard Burges, Master, has belonged to the City and Port of Bristol ever since 1676, having during that time used the Virginia trade (except only one voyage to the Isle of May), and has belonged and still belongs to inhabitants of Bristol, no alien or foreigner being in any way concerned in her; that she has been from time to time repaired at a cost of upwards of 1,000*l.*, so that she is a great part of English and English plantation timber; that being forced into Lisbon on her present voyage, her men left her, which was a great cause of lengthening her voyage, and cost her owners 1,200*l.*; that after her arrival in Virginia, the extreme frosty weather prevented her being laden before 25 March last, so that her seamen, concluding she would be then seized and not suffered to come home, left her, and thereupon the owners' agents discharged out of her what cargo she had taken on board her in Virginia, where the same remains, waiting orders from home Sworn before William Swynn, Bristol, 30 May 1698. [Read in the Committee this day. Com. Book.]

1305. June 23. *St. John v. Turner* (In Error).—Petition of Henry Turner, Esq. Petitioner's late father had several judgments &c. assigned to him for securing a debt from old John St. John, still unpaid, and particularly a Recognizance in Chancery to one Richard Norton for 1,000*l.* debt. In 1691 the coheirs of Benjamin St. John, the son and heir of John, recovered lands to the value of 100*l.* a year, which were the estate of Benjamin's father and liable to the securities, and Petitioner has put in suit Norton's Recognizance in the name of his trustee Mrs. Ann Norton, in whom the legal interest now is, and after a pretended release, pleaded only for delay, has got judgment in the Petty Bag Office upon a *Scire Facias*. John St. John, after waiving a Writ of Error in the King's Bench, has brought another in Parliament only yesterday, though the writ is dated 31 May. Prays their Lordships to consider this unreasonable delay. L. J., XVI. 326. [The Hearing took place on 4 July, when the judgment was affirmed. L. J., XVI. 338.]

1306. June 23. *Leigh v. Stydolph*.—Petition of the Respondents Luke Langhorne and Susanna Langhorne. Appellants' Petition of Appeal last Session was presented only for delay. See L. J., XVI. 111;

1698. Appellant has done nothing to prosecute it. Prays that it may be dismissed or an early day appointed for hearing. *Ib.*, 326. *In extenso*.
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 No. 1306. [Read this day and Appeal dismissed. See No. 1134, House of Lords Manuscripts Vol. II.]

Annexed:—

(a) 28 March 1699. Petition of Appellant Francis Leigh. 'The Respondent Stydolph has not yet put in his answer, for which reason Appellant could not properly bring on his Appeal to be heard, and the other Respondent Langhorne, taking advantage of Stydolph's delay, got the Appeal dismissed. Petitioner has four decrees in Chancery in his favour, and only one against him, namely, the one appealed from, which has been reversed by their Lordships already, in the point complained of, upon Stydolph's Appeal, and is also reported in Chancery to be irregular as to Petitioner, though he can have no redress except before their Lordships, as the decree has been once before the House, while Langhorne has brought a fresh Bill against Petitioner for the same matters. Prays that his Appeal may be retained and the dismissal discharged. *Noted*: The Cause is 4,000*l.* L. J., XVI. 421. [This Petition was referred this day to a Committee. *Mr. Serjeant Wright* was heard for the Appellant and *Sir Thomas Powys* for Respondents. Com. Book. On the Report of the Committee, which is given *in extenso*, the House dismissed the Petition and Ordered that the Cause should not be heard. L. J., XVI. 447.]

1307. June 23. Lustring Company (Royal) Act.—Petition of Richard Yorke, Richard Briscoe, James Hancocke, James Allen, Samuel Wright, Samuel Sedgwick, John Poe, Caleb Trenchfield, John Hals, Peter Pickering, John Lambert, William Vere, John Prudom, Abraham Walker, Thomas Smith, Edward Bee and George Wire, in behalf of themselves and several other shopkeepers within this Kingdom. Petitioners, who deal in silks called alamodes, chiefly by retail, will be greatly prejudiced by several clauses in the Bill. Pray to be heard by Counsel. *Signed* by all of the above except George Wire. *Endorsed* as read this day. L. J., XVI. 326. [The Bill was brought from the Commons on 15 June. L. J., XVI. 317. In Committee on 29 June *Sir Thomas Powys* and *Sir Bartholomew Shore* were heard for the Petitioners and *Mr. Serjeant Wright* and *Mr. Dodd* for the Bill. The clause of transportation was read and disagreed to on a division by 14 to 13, and the Bill was reported with an amendment. MS. Min. Royal Assent 5 July. L. J., XVI. 343. 9 Will. III. c. 43 Fol. Ed.]

1308. June 23. Smoak Silver &c. Bill.—Commons' Engrossment of an Act to take away the payments of Smoak Silver, Peter Pence and Common Fine and the Sheriffs' Tourne.

§ i. Whereas by long experience it hath been found that the Courts of the Tourne of the Sheriff have been much neglected and is (*sic*) of no use or advantage to the freeholders of the several counties, and, under colour and pretence that the suitors to such Courts do not perform suit to the said Courts of Tourne, the Under-Sheriffs and their Bailiffs, Officers and Agents do levy, collect and receive diverse great sums of money from the freeholders and subjects of this Kingdom, and, the said Under-Sheriffs, Bailiffs, Officers and Agents do very often levy and demand from diverse of the subjects of this Kingdom a duty called Smoak Silver, which is never answered to his Majesty, but a great grievance to his Majesty's good subjects, Be it therefore enacted, &c.,

That from and after the nine and twentieth day of September one thousand, six hundred, ninety-eight, no Under-Sheriff, Bailiff, County Clerk or Steward of the Sheriffs' Tournes or County Court, or any other Bailiff or Officer whatsoever, shall under any colour or pretence whatsoever ask, demand, collect, levy or receive any sum or sums of money whatsoever from any person or persons whatsoever within the Kingdom of England, Dominion of Wales or Town of Berwick-upon-Tweed for his or their not appearing at the Sheriffs' Tournes, or for any fine or amercement by means or reason thereof, nor for the duty commonly called Smoak Silver, Peter Pence or Common Fine, any law, statute, custom, usage or prescription to the contrary in any wise notwithstanding.

§ ii. Provided that nothing in this Act contained shall in any wise extend to diminish or abridge the right of any Lord paramount or Lord of the fee of any hundred or manor, but that such Lords, their bailiffs or stewards, shall or may act and do as heretofore hath been lawfully used or accustomed within their several and respective hundreds or Lordships, anything before contained to the contrary thereof in any wise notwithstanding. *Parchment Collection*. [Brought from the Commons this day. L. J., XVI. 325. In Committee on 28 June the Lord Chief Baron was heard and the Bill was amended. MS. Min. The judges were ordered to attend the House on 30 June. L. J., XVI. 331. No further proceedings.]

1309. June 24. Silver and Gold Thread Act.—Petition of the Silver and Gold Wire-drawers and actual workers of the same wire, in behalf of themselves and many hundreds of poor families of that employment. The Bill specifies that the silver, on which the gold is to be laid, is to be 11 oz. 16 dwt. of fine silver upon the lb. Troy. This is altogether impracticable, and 11 oz. 10 dwt. of fine silver to make the lb., with 4 dwt. of fine gold upon each lb., will make it more durable, more beautiful and beneficial to the wearer. Petitioners ought not to be under any penalty in their honest labours to work the wire. *Signed* by James Brooke and 66 others. *Endorsed* as read this day. L. J., XVI. 329. [The Bill was brought from the Commons on 20 June. *Ib.* 322. In Committee on 24 June the Petitioners were heard and stated that the goodness of the gilt in Holland was about 9 dwt., and in France 16 dwt. or rather better. Com. Book. The Bill was reported without amendment. Royal Assent 5 July. L. J., XVI. 329, 343. 9 Will. III. c. 39. Fol. Ed.].

1310. June 37. East Indies Act.—Petition of the Governor and Company of Merchants of London trading into the East Indies, in a General Court assembled. Petitioners have a right to the trade to the East Indies by divers Charters, and have had the same for about 100 years. Several of the Charters contain express covenants from the Crown not to allow any other persons to trade to those parts. One Royal Charter, of 7 Oct. 1693, restores and confirms to them all their former powers and privileges, and by another Charter of Regulations, of 11 Nov. 1693, whereby the Company submitted, as an addition to their Stock, to receive subscriptions for 744,000*l.*, which sum was actually paid in by the New Adventurers upon the credit of the said Royal Grant, his Majesty appoints that the joint stock of the Company shall continue for 21 years from the date of the said Letters Patent. The Company have also a third Charter, of 23 Sept. 1694, and in the two last Charters of Regulations there are many provisions made for the general benefit of trade and the public weal. Since these Charters were granted, no breach nor forfeiture of their rights has been committed by,

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or pretended to be charged upon Petitioners. Since the new subscriptions, the Company have lost 12 great ships of immense value, not through any fault of theirs, but by the calamities of the war, but, notwithstanding these losses, they have still carried on their trade, and paid 295,000*l.* in Customs and 85,000*l.* for taxes, besides the taxes for this year, and also supplied his Majesty in Holland, on a very pressing occasion, with 6,000 barrels of gunpowder, and subscribed 80,000*l.* towards the circulating of Exchequer Bills, at a time of great extremity. Petitioners, having thus carried on the trade during the late war, hoped to have received returns of profit in time of peace, to answer their losses and misfortunes. Being informed of Resolutions of the Commons for raising 2,000,000*l.* on a fund of 8 p.c., and the additional advantage of the trade to the East Indies, Petitioners, for the preservation of above a thousand families interested in their joint stock, in a General Court held on the 10th June inst. agreed to submit their present stock to a valuation of 50 p.c., viz. 20 p.c. for their dead stock, and 30 p.c. for their quick stock (which they were contented to warrant at the said sum), and upon these terms offered to open their Books for new subscriptions, in order to raise the 2,000,000*l.* for the service of the Government. Afterwards, to ascertain the payment of the 2,000,000*l.*, they agreed in a General Court on the 20th inst. to an immediate subscription by Private Adventurers of 200,000*l.* as first payment, subject to making good the subsequent ones, which subscriptions were accordingly made by persons of known ability. The Bill, which has, nevertheless, passed the Commons, tends to prejudice Petitioners' rights and deprive them of their property in lands of inheritance and other estates and interests in foreign parts, to the value of 44,000*l.* a year, and in the several forts and fortifications, the purchase and improvement of which have at several times cost Petitioners above 1,000,000*l.* The Bill will be the utter ruin of many hundreds of families, and prove destructive to the trade and interest of England. Pray to be heard by Counsel against it. *Signed* (by order of the General Court) by Robert Blackborne, Secretary. *Endorsed* as read this day. L. J., XVI. 330. [The Bill was brought from the Commons on 27 June. *Ib.* 329. On 1 July *Sir Thomas Powys* is heard for the Company to ask "whether the Charter we have enjoyed can be justly taken away unless it can be shown that we have forfeited it." *Sir Bartholomew Shore* (also heard). This is to give away a right to others which is granted to us. The King's interest is against this Bill. *Mr. Serjeant Wright* heard for the Bill. *Mr. Pratt* heard also for the King. After long debate the Bill was read 2^a by 47 to 28. Proxies:—18 content, 20 not content. Leave given to dissent. MS. Min. Royal Assent 5 July. L. J., XVI. 343. 9 Will. III. c. 44. Fol. Ed.]

1311. June 28. Wood v. Deane (In Error).—Petition of Defendants. Plaintiffs, since obtaining their Writ of Error, have for further delay alleged diminution for want of an original, as pretended, but the L. C. Justice has certified that there is an original filed. Petitioners have pleaded to the Errors and left their Plea with the Clerk of the Parliaments. Pray for an early day for the Hearing. *Signed* James Deane, Wm. Wragge. *Endorsed* as read this day. [The Writ of Error was brought in on 3 June. L. J., XVI. 308. The Hearing was appointed and put off. *Ib.* 330. No further proceedings. See No. 1298.]

Annexed:—

(a) 4 Jan. 1698-9. Petition of James Deane and William Wragge, Defendants, praying for an early day for hearing. *Endorsed* as read this day. L. J., XVI. 357.

1312. June 28. Hayward v. Beastall (In Error).—Petition of the Defendant Francis Beastall. Plaintiffs, since obtaining their Writ of Error, have for further delay alleged diminution for want of an original, as pretended, but the L. C. Justice has certified that there is an original filed. Petitioner has pleaded to the Errors and left his Plea with the Clerk of the Parliaments. Prays for an early day for hearing. L. J., XVI. 330. *Endorsed* as read this day. [The Writ of Error was brought in on 3 June. *Ib.* 308. Hearing appointed and put off. *Ib.* 337. No further proceedings. See No. 1297.]

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Annexed:—

(a) 4 Jan. 1698-9. Petition of Francis Beastall, Defendant, praying for an early day for hearing. *Endorsed* as read this day. L. J., XVI. 357.

1313. July 1. Trafford's Estate Act.—Consent of John Trafford to the Bill for enabling Humphrey Trafford to raise 4,000*l.* upon his estate for payment of his debts. *Dated* 15 Oct. 1697. *Attested* Richard Watson, Henry Stirrup, Tho. Gooden. [The Bill was reported this day. L. J., XVI. 335. The above was no doubt produced in Committee, but the proceedings of the Committee are not recorded. The Bill was brought from the Commons on 15 June; Royal Assent 5 July. *Ib.* 317, 344. 10 Will. III. c. 107 in Long Cal.]

Annexed:—

(a) Consent of Thomas Dickenson, of Salford, co. Lancaster, Gent., and Peter Heywood, of Manchester, in the said county, Gent., surviving assignees of the Commissioners of Bankruptcy of Humphrey Trafford, Esq., in trust for his creditors. *Dated* 1 March 1697. *Attested* Robt. Assheton, Tho. Gooden.

1314. July 2. Whale-fins and Scotch Linen Act.—Petition of Henry Raper, Charles Lister, Nehemiah Eastman and others, merchants trading to Scotland, in behalf of themselves and many others, traders in the woollen and other manufactures of England. Petitioners have for many years been concerned in the said trade to Scotland, and have yearly exported thither great quantities of the manufacture and growth of England, in exchange mostly for linens. The additional duty imposed by the Bill will effectually prohibit the said linen by raising the price above the value of other foreign linens of like quality. This will ruin Petitioners' trade, while the revenue proposed to be raised will be deficient, and the great vent of English woollen manufactures yearly exported to Scotland will be stopped, to the great detriment of English trade in general, and the encouragement of the new undertakers of the woollen manufactures in Scotland, who have already made a considerable advance in erecting the same there, and by this method, it is doubted, will bring it to such perfection as may occasion the loss of the whole trade from England. Pray to be heard by Counsel. *Signed* Henry Raper, Charles Lister, Wm. Chace, Wm. Vere, George Wise, John Prudom, Wm. Bowden, Will. Pate, Tho. Stanley, Nath. Carpenter, Nath. Pearse, Will. Gordon, Nath. Smith, John Spencer, Tho. Carpenter. *Endorsed* as read this day. L. J., XVI. 336. [The Bill was brought from the Commons 1 July. *Ib.* 335. On 4 July *Sir Thomas Powys* and *Mr. Filmer* were heard for the Petitioners. *Mr. Thomas Stanley* heard upon oath. We used to send great quantities of woollen cloth. I believe they take 100,000*l.* a year and they take iron ware and tobacco. The returns are made on those that sell linen cloth. They say if these duties be laid, they cannot trade. *Wm. Gourdon*: I used to deal in Norwich stuffs for 4,000*l.*, 5,000*l.* or 6,000*l.* per annum.

1698. This duty is 2*d.* upon 7*d.* Other witnesses were heard. MS. Min.
 — The Bill was then read 2^a, 3^a, and passed. Royal Assent 5 July.
 No. 1314. L. J., XVI. 339, 343. 9 Will. III. c. 45. Fol. Ed.]

1315. July 2. Sally Rose (Ship) Act.—Petition of Joel Burford. The ship Sally Rose was taken as prize from the Turks in the reign of Charles II., and Petitioner, being an officer of the Customs, and on duty on the Thames, on 20 June last seized and forfeited it to his Majesty and himself, together with the cargo of sugar, cotton, wool elephants' teeth, annatto, &c., for being imported from Nevis in the West Indies in the said ship, which was never condemned in the Court of Admiralty or made free, as required by law, and has entered, and is proceeding on, an Information of seizure in the Court of Exchequer. The proprietors have applied to the House of Commons, who have passed a Bill for giving leave to the ship to arrive and bring in her loading, notwithstanding that Petitioner had seized it long before. Prays to be heard before the Bill pass. *Endorsed* as read this day and rejected. MS. Min. [The Bill was brought from the Commons 1 July. Royal Assent 5 July. L. J., XVI. 335, 344. 10 Will. III. c. 104 in Long Cal.]

1316. July 4. Writ of Summons (L. Mohun) —Writ of Summons to Charles, Lord Mohun, Chr. *Dated* this day. [Sat first in Parliament this day on the death of his father. L. J., XVI. 341.]

1317. July 5. King's Speech (Prorogation).—King's Speech on proroguing Parliament this day to 2 August next. L. J., XVI. 344. *In extenso*.

1318. Writs of Summons.—Writs of Summons, dated 13 July 1698, to the following Peers (3):—

1. Nathaniel Crew, Chr. (L. Crewe).
2. Edward, E. Sandwich.
3. John Vaughan, Chr. (L. Vaughan).

1319. Sept. 27. Prorogation.—Writ, dated 27 September 1698, for further proroguing Parliament from this day to 27 October next. *Parchment Collection*. L. J., XVI. 347. *In extenso*.

1320. Nov. 29. Prorogation.—Writ, dated 26 November, for further proroguing Parliament from this day to 6 December next. *Parchment Collection*. L. J., XVI. 349. *In extenso*.

1321. Nov. 27. Garter's Roll.—A Roll of the Nobility of England, delivered to the Clerk of the Parliaments. *Signed* Tho. St. George, Garter, Principal King of Arms. It contains 166 names. *Parchment Collection*.

1322. Dec. 6. Test Roll (30 Car. II. Stat. 2, c. 1). Roll for the Parliament begun this day containing the signatures (141) of Lords to the Declaration in the Act of 1678 for the more effectual preserving the King's Person and Government by disabling Papists from sitting in either House of Parliament. *Parchment Collection*.

1323. Dec. 6. Writs of Summons.—Writs of Summons, dated 13 July 1698, to the following Peers (14), who took the oaths this day. L. J., XVI. 350.

1. John Somers de Evesham, Chr., Chancellor.
2. Charles, D. St. Albans.
3. John, E. Bridgewater.

4. Thomas, E. Stamford.
5. Henry, V. Longvile [Longueville].
6. Thomas [Watson], Bp. of St. Davids.
7. Ralph Eure, Chr. (L. Eure).
8. Robert Cary de Hunsdon, Chr. (L. Hunsdon).
9. Robert Lucas, Chr. (L. Lucas).
10. William Berkley de Stretton, Chr. (L. Berkeley Str.).
11. Francis North de Guildford, Chr. (L. Guilford).
12. Hugh Cholmondly, Chr. (L. Cholmondley).
13. Henry Herbert de Chirbury, Chr. (L. Herbert).
14. John Thompson de Haversham, Chr. (L. Haversham).

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1324. Dec. 9. Writs of Summons.—Writs of Summons, dated 13 July 1698, to the following Peers (14), who took the oaths this day. L. J., XVI. 351.

1. George, D. Cumberland.
2. James, E. Anglesey.
3. John, E. Marlborough.
4. Francis, E. Bradford.
5. Edward, E. Orford.
6. William [Lloyd], Bp. of Coventry and Lichfield.
7. Gilbert [Burnet], Bp. of Salisbury.
8. Edward [Stillingfleet], Bp. of Worcester.
9. Charles Cornwallis, Chr. (L. Cornwallis).
10. William Craven de Hampsted Marshall, Chr. (L. Craven).
11. Charles Bennett de Ossulstone, Chr. (L. Ossulstone).
12. William Legg de Dartmouth, Chr. (L. Dartmouth).
13. John Jefferyes, Chr. (L. Jeffreys).
14. Charles Butler de Weston, Chr. (L. Weston).

1325. Dec. 9. Poor Relief (Select Vestries) Bill.*—Draft of an Act for preventing the Poor's being cheated and other abuses. Whereas in many parishes, especially within the Cities of London and Westminster, and in the Weekly Bills of Mortality and in the other cities, boroughs, and corporations and places in the Kingdom of England and Dominions of Wales manifold great evils and abuses do frequently happen and arise by and from Select Vestries or pretended Select Vestries, divers private persons, under the colour and pretence thereof, and without the consent of the greater part of the most able and sufficient inhabitants of such parishes, usurping to themselves the sole power and disposal of the public moneys and stock and of the yearly revenues, rates, taxes, incomes, and profits belonging and appertaining to the said parishes, and which were given, granted, raised and intended, and ought to be applied, for relief of the poor and other charitable public uses, in case of the inhabitants of such parishes, such select vestrymen or pretended select vestrymen, and other persons by them employed, wrongfully and unjustly applying the said moneys, stock, revenues, rates, taxes and profits to their own use, or spending or consuming the same or the greatest part thereof in extravagant and unnecessary feastings, and other eating and drinking, to the great loss and prejudice of such parishes; and whereas the said select vestrymen do take upon them to prepare and make public rates for the said parishes, which many times are very partial, unequal, and oppressive, and do frequently refuse or omit to give a due and just account to the parishioners of the public

* Indexed in L. J. as Poor Bill,

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moneys by them received for the use of the said parishes, and of their payments and disbursements of the same, and for the sake of their private lucre and gain the said select vestrymen, by indirect methods and practises, impose and contrive themselves in the said place and office of vestrymen for divers years together; For remedy whereof, and of the like abuses and inconveniences for the future, Be it enacted, &c., that from henceforth, in all cities boroughs and corporations parishes and places where select vestries or pretended select vestries have been held, used or accustomed, it shall and may be lawful to and for every the inhabitants and parishioners which are annually rated and taxed the sum of _____ to and for the rates for the church and poor of such parishes, annually to meet and assemble together in their respective parish churches, and then and there to elect, nominate and appoint such and so many as have been accustomed for the said parish of the most discreet and sufficient inhabitants to be vestrymen, which said persons, so to be elected as aforesaid, shall be and continue in the place or office of vestrymen, in their respective parishes where they shall be so elected, for the space of one whole year and no longer, and shall and may during such time act and perform all such lawful act or acts, thing or things belonging to the said place or office as heretofore [have] been lawfully acted or done by former vestrymen for the good and benefit of such parish.

Be it enacted that the parson, vicar, or curate of every such parish, two Sundays at the least before such election, immediately after morning Divine Service, shall give public and due notice to the parishioners and inhabitants to meet, elect and choose vestrymen for such parish as aforesaid. And, for the better maintenance of peace and good order in the performance of the same, it shall and may be lawful to and for the parson for the time being, and, in his absence, for the vicar or curate, to preside at such election, and to take the poll and judge of and by the same who are duly elected vestrymen by the majority of the parishioners as aforesaid; and if any dispute shall happen or arise concerning the choice of any vestrymen, then and in such case the person and persons pretending to be aggrieved shall and may, in the space of ten days then next after, appeal to the patron or patrons of such parish or parishes where such dispute shall happen, and, in the case of the absence or disability of such patron or patrons, to the next Justice of the Peace, who is hereby empowered to examine and finally determine the same, without any further appeal.

And be it further enacted by the authority aforesaid that the parson, vicar, curate, and churchwardens for the time being shall be members of every such vestries, and the parson, or, in his absence, the vicar or curate shall be chairman thereof and preside therein, and also the parson in his absence shall and may depute and appoint some fit and discreet person in his place to act, sit and preside in the meetings and assemblies of the said vestrymen.

And be it enacted by the authority aforesaid, that all and every person and persons who shall at any time hereafter be elected vestrymen or member of any vestry as aforesaid and the major part of them shall and lawfully may have full power and authority, within one month after such election, to summon and call before them all and every the vestrymen or members of former vestries, churchwardens, overseers of the poor, scavengers and surveyors of the highways of their respective parishes, and such other person or persons who have received or possessed themselves of any parish money, rent, estate, revenues, rates, taxes, gifts, gatherings and all other public moneys given or belonging to the several parishes, or had and received by them or any or either of

them, and of all affairs, matters and things belonging unto or concerning the church and poor and the highways of their respective parishes, and to take their respective accounts, and to pass and allow the same, if they shall appear to be just and true, and upon any defect and default therein the said vestrymen elected and appointed as aforesaid, or the major part of them, shall or may make complaint thereof to the Justices of the Peace for the county or city in which such parish or parishes do lie, at the next General or Quarter Sessions of the Peace, who are hereby authorised and empowered forthwith to hear, redress and determine the same, according to justice and his Majesty's laws in that behalf provided.

Provided always that in all parishes where there is and hath been payments made by the parishioners and others for the burials of the dead in the church, chapels, vaults or churchyards of their respective parishes, and also for their seats or pews in their respective churches or chapels, nothing in this Act contained shall be construed to give the parson of the parish (without the consent of the vestry first had and obtained) any power to alter or change the rates of burials of the dead, or the rates for the pew rowles, so as all the said rates and payments of the burials and pew rowles be paid to the parson or parsons of such parish or parishes; and for the more easy recovery of such rates, dues or payments, it shall and may be lawful for the parson or parsons of such parish or parishes, upon refusal of payment after legal demand to be in that behalf first made, to commence and bring an action or actions of debt for the same in any of his Majesty's Courts of Common Law.

Provided always nevertheless, that nothing in this Act shall be construed to give the parson for the time being any power whatsoever to make void any deed, grant, writing, lease or conveyance whatsoever, heretofore legally made and executed, either by himself or any of his predecessors, of any part or parcel of the glebe, but that the same shall be valid and in full force and virtue as the same was at the executing thereof; And it is hereby enacted, by the authority aforesaid, that the parson shall not be kept out of the possession of any part or parcel of his glebe upon any pretence whatsoever, except it be in such case as is aforesaid, but shall [be] and is entitled to have every part and parcel of his glebe, and also for all the time past full satisfaction of every such person or persons as have at any time heretofore possessed or enjoyed any part or parcel of the glebe, except in such case as is aforesaid. [Read 1^a this day. L. J., XVI. 352. Referred to a Select Committee. *Ib.* 434. No further proceedings.]

1326. Dec. 13. Writs of Summons.—Writs of Summons, dated 13 July, 1698, to the following Peers (6) who took the oaths this day. L. J., XVI. 353.

1. Charles, D. Southampton.
2. Nathaniel [L. Crewe], Bp. of Durham.
3. Peter [Mews], Bp. of Winchester.
4. Robert Willoughby de Eresby, Chr. (L. Willoughby de Eresby).
5. Richard Willoughby de Broke, Chr. (L. Willoughby de Broke).
6. Sidney Godolphin, Chr. (L. Godolphin).

1327. Dec. 13. Farewell's Naturalisation Act.—Draft of an Act for naturalising Elizabeth Farewell. [Read 1^a this day; Royal Assent 1 Feb. 1698–9. L. J., XVI. 353, 372. 10 Will. III. c. 5 in Long Cal.]

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Annexed:—

(a) Duplicate of preceding.

(b) 10 Jan. 1698-9. Certificate that Elizabeth, the wife of Lieut.-Col. John Farewell, received the Sacrament, on 25 Dec., according to the usage of the Church of England, in his Majesty's Chapel Royal within the Tower of London. *Signed* William Hawkins, Minister. *Dated* 27 December 1698. *Attested* Tho. Sergeant, M. Soull, 3 Jan. 1698-9. [Read in Committee this day. Com. Book.]

1328. Dec. 13. Stoppages in the Streets.—Petition of the Brewers, Woodmongers and others in and about the City of Westminster. Petitioners understand their Lordships' intention is to alter the usual Order to prevent stoppages in the streets from two to three o'clock in the afternoon, during the sitting of this Parliament, which Order Petitioners have always diligently observed, though to the great detriment, if not ruin of some of their families, trade being at so low an ebb, and servants' wages much increased. Pray their Lordships to alter the hours by changing them from 11 a.m. to 3 p.m. or from 10 a.m. till 2 p.m. *Signed* Tho. Cross, Taner Arnold, Will. Green, Leonard Martin, Samuel Paul. [Read this day, and Ordered that the Order to prevent Stoppages be altered from ten to eleven. MS. Min. No entry in L. J. of date.]

1329. Dec. 16. Writ of Summons (Bishop of London).—Writ of Summons, dated 13 July 1698, to Henry [Compton], Bishop of London. [Took the oaths this day. L. J., XVI. 354.]

1330. Dec. 20. E. Derwentwater's Estate Act.—Amended Draft of an Act for the more easy and certain payment of the debts of Edward, Earl of Derwentwater, by sale of woods and timber, and for enabling him to raise money for discharge of incumbrances upon part of his Estate. The Amendments of the Lords were of a formal character. No amendments in the Commons. [Read 1^a this day; Royal Assent 1 Feb. 1698-9. L. J., XVI. 355, 372. 10 Will. III. c. 4 in Long Cal.]

Annexed:—

(a) 12 Jan. 1698-9. Lords' Amendments to the Bill. [Made in Committee Jan. 5 and 9. Com. Book. Reported this day. L. J., XVI. 359.]

1331. Dec. 20. *Fitch v. Attorney-General*.—Petition and Appeal of John Fitch, Esq. Petitioner on 30 October 1691 entered into articles with the Commissioners of the Navy for building a dry dock and two wet docks at Portsmouth, to be finished before All Saints Day 1692, according to a design of the Surveyor of the Navy, whose orders he was to follow. The Commissioners covenanted to sign Bills to him or his assigns on the Treasurer of the Navy, by way of imprest, viz. 2,500*l.* on tallies on the Additional Excise, on the sealing of the articles, and quarterly bills for the rest, according to the value of the work and materials, over and above the 2,500*l.*; the bills to be paid in course, according to the custom of the Navy, together with the balance of the whole charge, by a perfect Bill (all imprest deducted), when the whole work was certified to be completed. The first part of the articles, with the sheets affixed to it and signed by the Commissioners was not delivered to Petitioner till May, 1692. Towards the end of March 1692, the Surveyor took Petitioner to Portsmouth and staked out some of the ground, but being mistaken as to the site of the docks, 6 months were spent before he

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came to any resolution in the matter. Owing to the Surveyor's alterations and additions from the first design, and to accidents in consequence of the badness of the ground, obstructions by ships, want of convoys, through which several ships of materials were taken by the French, and want of orders from the Surveyor, Petitioner, by the consent and encouragement of the Commissioners, wrought at the work till July, 1694. After Petitioner had done all the hazardous and unprofitable part of the work in the water, where he could not work above two or three hours a day by reason of the tides, and had come to the upper part of the dry dock, which would have made some amends for the other work, the Commissioners seized the materials, turned him out of the work, and sued him on his bond of 20,000*l.*, given for performance of the articles, and pretended they had overpaid him. Petitioner then brought a Bill in the Exchequer, and after several issues had been tried, the Court, on hearing the Cause, ordered that the bond should be cancelled, and that the Deputy should report as to moneys advanced by the Commissioners, and work done, &c. The Cause being heard on his Report, the Court referred it to the Auditor of the Imprest, who reported a sum of 4,681*l.* 9*s.* 7½*d.* due to Petitioner. The Court, on a further hearing on his Report, decreed that the Commissioners of the Navy should deliver to Petitioner Bills to the Treasurer of the Navy for 4,053*l.* 19*s.* 8*d.* with interest, none of which, however, he has since received. The Decree is defective, for reasons stated, in not allowing Petitioner the full amount due to him. Prays for relief and that the Attorney-General and the Commissioners of the Navy may be ordered to answer. *Signed* by Appellant. *Countersigned* Wm. White Locke, Tho. Mulso. L. J., XVI. 354. [At the Hearing on 9 Feb. *Sir Thomas Powys* and *Mr. Dodd* were heard for the Appellant and the *Solicitor-General* and *Mr. Serjt. Wright* for the King and the Commissioners of the Navy Board. On 10 Feb., after debate, it was *proposed* to dismiss the Appeal. The *previous question* was put and negatived by 24 to 17. (E. Anglesey and E. Marlborough, Tellers). On 11 Feb., after debate, the *question* was put whether the House should allow Mr. Fitch the sum of 265*l.* over and above what the Court of Exchequer had allowed him. Resolved in the *negative*. The *question* whether he should be allowed any interest beyond what had been allowed him by the Court was resolved in the *affirmative* by 20 to 19 (E. Anglesey and E. Staniford, Tellers), but the allowance of discount on tallies was refused. The Decree was then *affirmed* with this alteration, that Mr. Fitch should have interest allowed him from the time he was turned out until the verdict, and if any part of that money had been paid before the verdict, interest for that should be abated from the time it was so paid. MS. Min. L. J., XVI. 381.]

Annexed:—

- (a) 3 Jan. 1698–9. Answer of Sir Thomas Trevor, Knt., his Majesty's Attorney-General. The Decree of 25 July 1698 complained of was just and equitable. Prays that the Appeal may be dismissed with costs. *Signed* by Respondent. *Endorsed* as brought in this day.
- (b) 3 Jan. 1698–9. Answer of the Commissioners of the Navy. In satisfaction of the Decree, a Bill for 4,059*l.* 8*s.* 4*d.* has been given by Respondents on the Treasurer of the Navy, which Appellant has accepted. Pray that the Appeal may be dismissed with costs. *Signed* R. Haddock, J. Sotherne, Tho. Willshaw, John Hill, D. Lyddell. *Countersigned* Jo. Hawles, Tho. Lechmere. *Endorsed* as brought in this day.

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1332. Dec. 20. *Smalman v. Brayne*.—Petition and Appeal of William Smalman and Thomas Gregory. Respondents, as lessees under the Bailiffs and Burgesses of Bridgnorth, co. Salop, of certain ancient water corn-mills, called Pendastone Mills, near that town, brought a Bill of Complaint in the Exchequer in 1694 against Appellants, alleging that there had been a custom time out of mind that all the inhabitants of the town should grind all their corn and grain which they used in their houses at the said mills only, and praying a discovery of the quantity of grain the Appellants had used ground in their houses, and that they should be compelled to grind all their corn and grain in future at the mills. Appellants denied the alleged custom, and insisted that foreign millers had publicly come into the town at all times of the year and ground the grist of the inhabitants time out of mind without interruption, and specially when they were ill used at Respondents' mills, as Appellants had frequently been. The Court on 25 Nov. 1697 directed a trial at law by a jury of the county on the issue whether there was any such custom or not; but Respondents, to avoid the trial, obtained an Order for rehearing, and the Cause being reheard on 12 July last, the Court decreed the custom ratified without any trial, and ordered that Appellants and all claiming under them should pay their suit and soke to Respondents' mills, and grind all their corn and grain there, unless Respondents should fail to grind it within 48 hours after being taken to the mills. Pray that the Decree may be reversed, a trial at law directed, and Respondents ordered to answer. *Signed* by Appellants. *Countersigned* James Sloane, Wm. Banastre. L. J., XVI. 354. [At the Hearing on 23 Feb. *Sir Thomas Powys* and *Mr. Sloane* appeared for the Appellants, and *Mr. Serjt. Wright* and *Mr. Dodd* for the Respondents. MS. Min. The Appeal was dismissed. L. J., XVI. 388-9.]

Annexed:—

- (a) 18 Jan. 1698-9. Answer of Humphrey Brayne and Richard Walker. The Decree is just. Pray that the Appeal may be dismissed with costs. *Signed* by Respondents. *Countersigned* Sam. Dodd. *Endorsed* as brought in this day.
- (b) 25 Jan. Petition of Respondents that the Charter of the town of Bridgnorth, which was read as evidence in the Exchequer, may be produced at the Hearing. L. J., XVI. 366. [It was produced on 23 Feb. MS. Min.]
- (b) 25 Jan. Affidavit of Humphrey Brayne, of Bridgnorth, Gent., that he had requested the Bailiff, Deputy-bailiff, and Burgesses at a Common Hall to have the Charter to produce at the Hearing, and that the Bailiffs and the majority of the Aldermen and substantial Burgesses complied, but that Appellants and one Laneclot Taylor, their Solicitor, persuaded many of the Burgesses, most of the meaner sort, to vote against it, whereby Deponent is deprived of the Charter, though he has offered double the security for its safe return that was given when he had it in the Exchequer. *Sworn* 20 Jan. 1698 before John Edwardes. [Appended to preceding.]

1333. Dec. 20. *Sir S. Peyton v. Skelton*.—Petition and Appeal of Sir Sewster Peyton, Bart. Petitioner was seized of the manors of Doddington and Coldham, in the Isle of Ely, chargeable with an annuity of 500*l.* to his late mother Lady Peyton, by the Will of his late father Sir Algernon Peyton, and also of the manor of Great Raveley, co. Huntingdon, by the Will of his late grandfather Sir

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Robert Sewster. His mother and John Skelton, her second husband, having entered on the estates as his guardians (he being then only eight years old) brought a Bill in Chancery against him, and procured a Cross-Bill to be exhibited against them in his name, for a pretended settlement of accounts, but without noticing the manor of Raveley, the profits of which they intended to appropriate to themselves. The Court on 28 Oct. 1676 having decreed an account, the Master reported first 1,108*l.* 3*s.* 10*d.* was due to the guardians on Lady Day 1676, and secondly 1,931*l.* 3*s.* 7½*d.* due at Michaelmas 1679. Skelton and his wife in Nov. 1677 mortgaged the estate (excluding Raveley) and the Decree and Report of 1,108*l.* 3*s.* 10*d.* for 650*l.* to Sir John Staey, whose executrix afterwards, together with Skelton and his wife, immediately after the second Report of the Master, assigned the said security and the two Reports to the Respondent Humphrey Browne, together with 500*l.* devised to Lady Sewster by Sir Robert Sewster for securing 1,240*l.* The lease of the manor of Coldham expired at Michaelmas 1683, by reason whereof the profits of the manors of Doddington and Coldham far exceeded the annuity of 500*l.* Browne, the pretended mortgagee, had notice thereof, and was often desired by Petitioner's friends to call in his money, but, by reason of gratuities given him by Skelton, he refused, and continued the same even after the death of Lady Peyton, Skelton's wife, in 1685, by whose death the annuity determined. Petitioner, by his *prochain amy*, brought a Bill in Chancery in 1685 against Skelton and Browne. The latter had before brought a Bill against Petitioner to have the benefit of the security. The two Causes were heard on 19 Feb. 1686. The Court decreed that Browne should be paid his debt and assign; that the Master should take an account between Skelton and Petitioner of what was due to Browne on his mortgage, certify what was due to Skelton for arrears of the annuity, and what rents he or his Lady had received of Petitioner's estate; that Skelton should be allowed for maintenance of Petitioner and his sisters; that the account touching Doddington and Coldham should stand and not be ravelled into, and the account of Raveley should be taken separately, from the death of Lady Sewster. On a rehearing, on 15 Dec. 1687, it was decreed that Petitioner should pay Browne the said debt, with interest and costs, so far as the 1,934*l.* 3*s.* 7½*d.* and interest would extend, and that Browne, on payment, should assign; in default of payment, the manors of Doddington and Coldham should be charged therewith, and Browne should be liable to the receipts of Skelton and his wife out of those manors since the report for the last named sum. It was insisted that Petitioner's Bill was defective in some particulars, and leave was given him to amend it; with these alterations, the Decree of 19 Feb. 1686 was to stand. Petitioner amended his Bill, but Browne refused to answer Petitioner's charges, and pleaded the former Decree of 1676. The Court, on finally hearing the charges and plea on 13 June 1694 and 20 Feb. 1694-5, declared that the profits received by Skelton and his wife out of the manors of Doddington and Coldham only, but not Raveley, should be applied to sink Browne's debt; and ordered that the decretal order of 15 Dec. 1687 for taking the accounts of Doddington and Coldham should stand, but that, if Browne should insist upon having the benefit of the legacy of 500*l.*, then the profits received by Skelton and his wife out of Raveley should also come into account to that extent, and that Browne's plea to the amended Bill should be allowed. By a later Decree of 20 Nov. 1697 Browne was decreed to have his costs in both Causes. Pray that, for reasons stated, the Decrees may be reversed, and Skelton and Browne ordered to answer.

1698. *Signed* by Appellant. *Countersigned* T. Powys, Hen. Poley, J. Hooker. L. J., XVI. 355. [At the Hearing on 14 Feb. *Sir Thomas Powys* and *Mr. Poley* appeared for the Appellant and *Mr. Serjt. Wright* and *Mr. Dobyns* for Respondents. MS. Min. The Appeal was allowed. L. J., XVI. 383.]
- No. 1333.

Annexed:—

- (a) 12 Jan. 1698–9. Answer of Humphrey Browne. The Decees are just and well warranted by the rules of equity. Prays that the Appeal may be dismissed with costs. *Signed* by Respondent. *Countersigned* Nath. Wrighte, Wm. Dobyns. *Endorsed* as brought in this day.

1334. Dec. 22. Writ of Summons (L. Barnard).—Writ of Summons, dated 20 Dec. 1698, to Christopher Barnard de Barnard Castle, Chr. [Introduced this day. L. J., XVI. 356.]

1335. Jan. 3. Writ of Summons (E. Rochester).—Writ of Summons to Laurence, Earl of Rochester. *Dated* 13 July 1698. [Took the oaths this day. L. J., XVI. 356.]

1336. Jan. 4. Writ of Summons (E. Grantham).—Writ of Summons to Henry [de Overkirke], Earl of Grantham. *Dated* 26 Dec. 1698. [Introduced this day. L. J., XVI. 357.]

1337. Jan. 4. Oldbury v. Wynne.—Petition and Appeal of John Oldbury, of London, Merchant. Petitioner, at the instance of one Ellan, a scrivener employed by himself and Respondent, agreed to advance Respondent 300*l.*, the balance of a sum of 500*l.* which Respondent had consented to lend one Dr. Triplett on the mortgage of an annuity of 80*l.* payable by the City of London. Ellan stated that Respondent had got in 200*l.* of that sum, but could not get in the rest by the time it was to have been lent. The security was to be taken in Appellant's name, and Respondent was to repay Appellant soon and accept an assignment of the mortgage. Appellant accordingly advanced 300*l.*, and had a mortgage made to him by Triplett for 500*l.* Ellan failed to get the 300*l.* from Respondent, but procured one Samuel Atkinson on 4 Oct. 1692 to advance the whole, and Petitioner assigned the mortgage to Atkinson, who paid him the 500*l.* Petitioner then paid the 200*l.* to Ellan, as requested, on obtaining a note from the Respondent authorising him to do so. Some years after, Respondent took out execution against Ellan for the 200*l.* and other debts. Ellan became bankrupt and was imprisoned in the King's Bench prison, but was released under the recent Act enabling two-thirds of the creditors to make compositions with the debtor. Respondent and Ellan then conspired to make Petitioner pay the 200*l.* over again, and Respondent brought a Bill in Chancery against Petitioner and colourably against Ellan, pretending that Petitioner had never paid the 200*l.*, but had detained it towards payment of a bigger debt due to him from Ellan, and that the note had been fraudulently obtained to bar Respondent. The Court, on 11 Jan. 1697–8 (Mr. Justice Turton sitting in the absence of the L. Chancellor) dismissed Respondent's Bill with costs, but the dismissal was set aside by the Lord Chancellor on 1 June 1698, who confirmed his decree on a rehearing on 14 Nov. last. Prays that the two last Decees may be reversed, and the Decree of Mr. Justice Turton confirmed. *Signed* by Appellant; *Countersigned* Tho. Trevor, Con. Phipps. L. J., XVI. 357. [At the Hearing on 31 Jan. *Sir Bartholomew Shore* and *Mr. Phipps* appeared for Appellant

and *Mr. Serjt. Wright* and *Sir Thomas Powys* for Respondent. MS. 1698-9.
Min. The Appeal was dismissed. L. J., XVI. 370.]

Annexed :

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No. 1337.

(a) 14 Jan. 1698-9. Answer of Owen Wynne, Gent. The Master's Report certified 355*l.* 6*s.* 11*d.* due to Respondent, to which he is entitled under the Decree, which is just and reasonable. Prays that the Appeal may be dismissed with very good costs. *Signed* by Respondent. *Endorsed* as brought in this day.

1338. Jan. 4. *Berkeley v. Cope*.—Petition and Appeal of John Berkeley, Esq., Reginald Bretland, Serjeant-at-law, and Robert Fowle, Goldsmith. Jonathan, William and Anthony, sons of Jonathan Cope and Susannah his wife, both deceased, infants, by Sir Thomas Peshall, Bart., Sir Robert Jenkinson, Bart., and Henry Farmer, Esq., their guardians, brought a Bill in Chancery against Appellants, setting forth that, on a marriage between Jonathan Cope and Susannah, only daughter of the late Sir Thomas Fowle, Knt., the latter made his will bequeathing to the Appellants Bretland and Fowle two fee-farm rents, of 76*l.* and 50*l.* a year respectively, with directions to purchase out of his personal estate so much land as would make them up to 300*l.* a year, the whole to be in trust for Susannah during her life, then to her children for such terms and estates, chargeable with the said sum, as Susannah alone should by deed appoint; that Jonathan the elder died in June 1694, and Susannah about the end of 1695 married the Appellant Berkeley; and praying that the trustees should show cause why they should not purchase as much lands, &c. as would make up the 300*l.*, and apply the profits to the infant Plaintiffs. The Appellant trustees answered that, in order to pay off her first husband's debts, Susannah in July 1695, at the advice of Counsel, allowed the money directed to be laid out in purchasing rents, computed to amount to 3,480*l.*, to be applied by the trustees to the payment of such debts as could not otherwise have been satisfied, in consideration of which payment she discharged them from the purchase directed in the will. The Appellant Berkeley answered that Susannah by will, dated 31 Jan. 1696, devised to her sons and their heirs the fee-farm rents bequeathed to her by her father; and that, by the advice of Counsel, Susannah had a power over the money, under Sir Thomas Fowle's will. The Lord Chancellor and the Master of the Rolls, on hearing the Cause on 23 July 1698, declared that the power of charging the fee-farm rents and the lands to be purchased to make up the 300*l.* was by the will only for the benefit of the infants, and must be restrained to the same persons to whom the estate was limited, and that Susannah had no power to receive the money from the trustees or dispose thereof, notwithstanding they had actually paid her the 3,480*l.*, and decreed that the trustees should purchase lands, &c. to make up the 300*l.* a year as directed. The trustees will thus be compelled to lay out the 3,480*l.* out of their own monies, after having already paid the same to Susannah, and must resort to her present husband to have it made good out of the estate of his late wife. Pray that the decree may be reversed in the point aforesaid. *Signed* by Appellants; *Countersigned* T. Powys, Wm. Dobyms, N. Wright, Edw. Northey. L. J., XVI. 357. [At the Hearing on 13 Feb. *Sir Thomas Powys* and *Sir Bartholomew Shore* appeared for Berkeley and *Mr. Serjt. Wright* for Bretland and Fowle, *Mr. Northey* for Fowle and *Mr. Dormer* and *Mr. Filmer* for Respondents. MS. Min. The Appeal was dismissed. L. J., XVI. 382.]

1698-9.

Annexed—

No 1338.

(a) 16 Jan. 1698. Answer of Jonathan Cope, Esquire, William Cope, and Anthony Cope, sons of Jonathan Cope and Susannah, his wife, both deceased, infants under the age of seven years, by Sir Thomas Peshall, Baronet, and Henry Farmer, Esquire, their Guardians. Sir Thomas Fowle died possessed of a personal estate of upwards of 40,000*l.*, Susan being then the wife of Jonathan Cope, by whom she had issue Thomas and Jane, since deceased. The trustees' alleged discharge from Susannah is a mere pretence to frustrate the devise of 300*l.* a year, testator's estate being in no sort affected with debts. Susannah's will, whereby the inheritance of the fee-farm rents was limited to the Appellant Berkeley after the determination of the estates tail thereby created, was made in fraud and prejudice to Respondents. The power of charging the said rents and the lands to be purchased is limited by Sir Thomas Fowle's will for the benefit of the infants, and must be restrained to the same persons as the estate is limited to, and Susannah's appointment to the contrary is void. Pray that the Appeal may be dismissed with costs. *Signed* Tho. Peshall, Hen. Farmer; *Countersigned* Robert Dormer. *Endorsed* as brought in this day.

(b) 26 Feb. 1700-1. Petition of Appellants. The Respondent Jonathan Cope has an estate of 800*l.* a year in possession and 300*l.* a year in reversion, which is sufficient to answer his guardians the costs of the suit, and William Cope has 76*l.* a year and Anthony Cope 50*l.* a year of inheritance in possession, besides about 200*l.* a year each annuities after the death of Sir John Cope. Notwithstanding this, the guardians would have Petitioners pay the costs of the suit, though the same was never expressed or intended in the decretal order. The Petitioner Bretland, though named an executor and trustee, never proved the will or possessed himself of the testator's estate, and Fowle, who proved the will and took possession of the personal estate, paid 3,480*l.* to Susannah, who paid her late husband's debts therewith. The guardians never applied for any costs at the Hearing, and the Lord Keeper, on hearing the matter on 13 July last, referred Petitioners to their Lordships. It is not usual to punish executors and trustees with payment of costs where no breach of trust or default appears. Pray their Lordships to hear the matter and absolve Petitioners from payment of costs. *Signed* by Appellants; *Countersigned* Wm. Dobyns. L. J., XVI. 608.

[At the Hearing on 22 March *Sir Thomas Powys* and *Mr. Pooley* appeared for the Appellants and *Mr. Cooper* and *Mr. Dormer* for the Respondents. MS. Min. Fowle and Bretland were ordered to pay the costs. L. J., XVI. 631.]

(c) 4 March 1700-1. Answer of Respondents. The costs pursuant to the Decree in Chancery, which was affirmed by their Lordships on 13 Feb. 1698-9, have been taxed at 279*l.* 6*s.* 3*d.*, being 100*l.* less than Respondents have actually expended in the prosecution and defence of the suits. Appellants, so far from complying with the decree, have detained the infants' money, without making any purchase or paying any consideration, and have refused to satisfy the costs. It is true that the decree does not express who should pay the costs, but the obvious construction is that Appellants should pay them, and if the intention had been that they should come out of the estate there would

have been no occasion for any direction of the Court as to taxing. The Appellant Bretland is liable, as he has all along appeared in justification of the breach of trust, and it is immaterial how much was paid by his co-trustee to Susannah, or how she applied the money so received. Pray that the decree may be explained so as to oblige Appellants to pay the costs. *Signed* Tho. Peshall, Hen. Farmer; *Countersigned* Wm. Cooper, Robt. Dormer. *Endorsed* as brought in this day.

1698-9.

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No. 1338.

1339. Jan. 4. Printing Regulation Bill.—Amended* Draft of an Act for the better regulating of Printers and Printing-Presses. § i. Whereas [of late times (there having been no law in force for the regulation of printing and printing-presses), divers books, pamphlets and papers have been printed and published, containing matters treasonable and seditious, tending to the disturbance of the peace of this Kingdom, and raising disaffection in his Majesty's subjects to his most excellent person and government, and divers other books, pamphlets and papers have been printed and published, containing matters blasphemous and heretieal, and destructive to the very foundation and principles of the Christian religion now established amongst us, tending to the encouragement of atheism, profaneness and irreligion, to the high displeasure of Almighty God; And whereas the well-government of printers and printing-presses may be a means to put some restraint upon the liberty and licentiousness of evil-disposed persons, who seek all ways to disturb the peace of his Majesty's government, and endeavour to destroy the true worship of God and religion, without which no good government can long subsist; For the better preventing of the aforesaid mischiefs, and that printers and printing-presses may be under some regulation and government for the future; May it please your Most Excellent Majesty, that it may be enacted and] *great inconveniences have happened for want of due regulation of printers and printing presses* Be it enacted etc. That from and after the *five and twentieth* day of *March which (sic) in the year of our Lord 1699*, no printing press then erected or at any time after to be erected within the cities of London and Westminster, or within the compass of *ten* miles of the same, shall be made use of in printing, nor shall the owner or master of such printing-press, or any person or persons having any interest or share therein, use or permit such press to be used in printing any matter or thing whatsoever, until he or they shall have first entered and enrolled in words at length his and their Christian names, surnames and places of abode, together with the place wherein such printing-press then is, or at any time after shall be erected and used, in the Court of Aldermen of the City of London, and also with the Master and Wardens of the Company of Stationers in London, in books or registers by them severally to be kept for that purpose, and that no such person or persons, after such entry and enrolment made as aforesaid, who shall remove his or their habitation or any such printing-press to any other place within the said cities of London and Westminster, or within the compass of *ten* miles of the same, shall use or permit such press to be used in printing any matter or thing whatsoever, until they have made a new entry and enrolment in the said Court of Aldermen and with the Master and Wardens of the said Company of Stationers, of the parish and place to which such person and printing press is removed, and that from and after the said *twenty-fifth* day of *March*, no printing press then erected or at any time after to be erected in either of the *two* Universities [of

* The additions are shown by italics, the omissions by square brackets.

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Oxford or Cambridge], or within the compass of five miles of the same, shall be made use of in printing any matter or thing whatsoever, until an entry and enrolment be made of the true name and place of abode of the master or owner of such printing-press, together with the place where the same is erected, and so as often as the said printer shall remove his press or habitation, with the respective Vice-Chancellors of the said Universities; and from and after the said *twenty-fifth* day of *March*, no printing press then erected, or at any time after to be erected in any other city or town corporate, or in any other place within this realm or the dominions thereof, or in the town of Berwick-upon-Tweed, shall be made use of in printing any matter or thing whatsoever, until an entry and enrolment be made of the true name and place of abode of the master or owner of such printing-press, together with the place where the same is erected, if in any city or town corporate, with the Mayor or Chief Magistrate of such city or town corporate, and if in any other place out of such city or town corporate, at the general Quarter Sessions of the Peace to be holden for such county or division, wherein such printing-press upon the said *twenty-fifth* day of *March*, or at any time after, shall happen to be erected.*

[§ iii. And be it further enacted by the authority aforesaid, That from and after the day of , no master printer or owner of any printing press, or any person or persons having any share or interest in any such press, inhabiting within the cities of London or Westminster, or within the compass of miles of the same, shall therewith print, cause or suffer to be printed any book, pamphlet or paper, until a true entry of the title of such book, pamphlet or paper, and the true Christian name, surname and place of abode of the person that brought the said book, pamphlet or paper to be printed, together with the name of the publisher and owner of the press where the same shall afterwards be printed, be first made in the Court of Aldermen of the City of London, and also with the Master and Wardens of the Company of Stationers in London, in manner as aforesaid; and that no book, pamphlet or paper shall from and after the day of be printed in either of the said Universities of Oxford or Cambridge, or within the compass of five miles of the same, or in any other city or town corporate, or in any other place within this realm or the dominions thereof, or in the town of Berwick-upon-Tweed, until a true entry of the title of such book, pamphlet or paper, and the true Christian name, surname and place of abode of the person that brought the said book, pamphlet or paper to be printed, together with the true name of the publisher and owner of the press where the same shall afterwards be printed, if in either of the said Universities or within five miles of the same, with the respective Vice-Chancellors for the time being, and if in any other city or town corporate, with the mayor or chief magistrate thereof for the time being, and if in any other place, with the next Justice of the Peace to the place where the same shall afterwards be printed.

§ iv. Provided the clause next before-mentioned shall not be construed to extend to Acts of Parliament, Proclamations and such other books and papers as shall be appointed to be printed by virtue of any warrant under his Majesty's sign manual, or by order of either of the Honourable Houses of Parliament, or by virtue of any warrant under the hand of one of his Majesty's principal Secretaries of State, or to blank bonds, probates of wills, and administrations of intestates' estates, licences of

* Here is noted to insert Clause A (Annex (a) below).

marriage, letters of licence by or compositions with creditors, warrants, certificates, acquittances, receipts, indentures of apprenticeship, bills and notes of lading and cargoes of ships, or other forms relating to the King's revenue, the justice or commerce of the nation.

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§ v. And be it further enacted by the authority aforesaid That from and after the day of , no printer or owner of any printing-press, or that shall have any share or interest therein, shall by himself, journeymen or servants, deliver or cause or suffer to be delivered out of his hands or custody any book, pamphlet or paper by him, them or any of them printed, or which shall be printed at his press, unless the true Christian name and surname in words at length, together with the place of habitation of the publisher and owner of the press where such book, pamphlet or paper was printed, be expressed and mentioned upon the title-page of such book or pamphlet, or upon such printed paper.]

[§ vi.] § iv. And be it enacted by the authority aforesaid, That all and every printer and printers, who shall offend against this present Act or any article or clause therein contained, and shall thereof be convicted in due course of law, shall for the first offence forfeit his [said] printing press, and all the letters and utensils thereunto belonging, and also be imprisoned by the space of *three* months, and for the second offence shall forfeit the [said] printing press, and all his letters and utensils thereunto belonging, and shall also be imprisoned by the space of *six* months, and for the third offence shall forfeit his said press, letters and utensils thereof, and shall be disabled to use or exercise the trade, art or mystery of printing by the space of *three* years, [and shall also have and receive such further punishment by fine and imprisonment, as by the Justices of the Court of King's Bench, or by the Justices of Oyer and Terminer and Gaol delivery, or by the Justices of Peace at their general Quarter Sessions of the Peace, to be holden for the county or division where the offence shall be committed, shall be thought fit to be inflicted upon them, which said Justices of the Peace in their general Quarter Sessions shall have full power and authority to hear and determine all and every offence and offences that shall be committed against this Act, or against any branch, article or clause thereof.]

§ vii. And be it further ordained and enacted, That if any person or persons whatsoever shall, from and after the said day of , print or publish, or cause or suffer to be printed or published, any book, pamphlet or paper, or other thing which shall contain any matter that is treasonable, seditious, atheistical, or heretical, and shall not, when required by one of his Majesty's Principal Secretaries of State, the Chief Justice of the Court of King's Bench, Vice-Chancellor of the said Universities, or one or more Justices of the Peace in their respective jurisdictions, discover and make known the author of such book, pamphlet or paper or other thing so printed, or the person that brought the same to be printed, and the place of his abode, That then the master or owner of the said press where such book, pamphlet, paper or thing was printed, shall be subject and liable to the same punishments as by law might have been inflicted upon the author thereof.]

[§ viii.] § v. And be it further enacted by the authority aforesaid, That no bookseller or other person shall sell, give, expose or offer to sale any book, pamphlet or paper printed in England after the said *five and twentieth* day of *March*, in which the Christian name,

- 1698-9. surname and place of habitation of the printer or publisher is not
 — expressed in words at length, upon pain of forfeiture of all such books,
 No. 1339. pamphlets and papers, [and for such offence shall be subject and liable
 to such fine as the Court, before whom he shall be convicted thereof,
 shall think meet and reasonable.

§ ix. And for the more effectual execution of this Act, and the better discovery of such printers, who shall continue to print in private and secret corners and places, contrary to the true intent and meaning hereof, Be it further enacted by the authority aforesaid, That either of his Majesty's Principal Secretaries of State, the Chief Justice of the Court of King's Bench, the Vice-Chancellors of the Universities and the Justices of the Peace in their respective jurisdictions, upon information to them or one of them upon oath made of any treasonable, seditious, atheistical, or heretical books, pamphlets or papers, which, after the said day of , shall be printed, published, sold or offered to sale, or which shall be printing contrary to this Act, shall or may, within their several and respective jurisdictions, by warrants under their hand and seal, empower any person or persons from time to time, and at all times, with the assistance of a constable, who is hereby required to be aiding and assisting to such person or persons, to enter into and search any printing-house, warehouse, cellar, vault or place wherein any of the said magistrates shall, upon such information as aforesaid, have reasonable cause or ground to believe that there is any private printing press, or any book, pamphlet or paper, containing any matter treasonable, seditious, atheistical or heretical, is then printing, or hath been printed or concealed there, and in case of refusal of admittance, or that no person be ready or offer to give admittance, to break open any door, chest, trunk, box or cupboard, or other place of concealment, and to seize and take away all copies of prints of any treasonable, seditious, atheistical and heretical book, pamphlet or paper, and also such private printing-press, and the letters and utensils thereunto belonging, and to apprehend and bring before some or one of his Majesty's Justices of the Peace every person using such private printing-press, or concerned in printing such treasonable, seditious, atheistical and heretical book, pamphlet or paper, in order to be committed, or else bound over by recognizance to be prosecuted and punished as the authors thereof, in case he or they shall refuse to discover or make known the author or person that brought the same to him, or employed him in the printing thereof.

§ x. And be it further enacted by the authority aforesaid, That whosoever shall import or bring, or cause to be imported or brought, into this realm, any printed book, pamphlet or paper in which is contained any matter treasonable, seditious, atheistical or heretical, shall be taken and deemed as the author thereof, and after any person shall be convicted and punished as or for being the author, publisher or importer of any treasonable, seditious, atheistical, or heretical book, pamphlet or paper, no person shall disperse, publish, give, sell, or offer to sale such book, pamphlet or paper under the pain of being imprisoned by the space of , and from thenceforth every such book, pamphlet and paper shall be liable to be seized and burnt, wheresoever they shall be found.

§ xi. And be it further enacted, That no person or persons shall knowingly demise or let, or suffer to be held or used, any house, vault, cellar, or other room whatsoever, to or by any person or persons for

printing, and that no joiner or carpenter shall make any printing-press, and that no smith shall forge any iron-work for a printing-press, and that no founder shall cast any letters, which may be used for printing, nor shall any person bring or cause to be brought from any parts beyond the seas any letters founded or cast, nor shall buy any printing-press, letters for printing, or other materials belonging to printing, unless he or they respectively shall first acquaint and give notice thereof to one or more of his Majesty's Justices of the Peace, which shall be by him put in writing and certified at the next general Quarter Sessions of the Peace, there to remain upon record, for whom the same presses, iron-work, or letters are to be made, forged, cast, brought, or imported, upon pain of imprisonment by the space of _____, if they or any of them shall be convicted thereof.

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§ xii. And for that printing is, and for many years hath been, an art and manufacture of this Kingdom; Therefore, for the better encouraging thereof, Be it enacted by the authority aforesaid, That no merchant, bookseller, or other person or persons whatsoever shall imprint or cause to be imprinted beyond the seas, nor shall import, bring or knowingly assist or consent to the importation or bringing from beyond the seas into this realm, any English books, pamphlets or papers, or which for the greater part thereof is or shall be English or of the English tongue, upon pain of forfeiture of all such English books, pamphlets and papers so imprinted or imported contrary to the tenor and true meaning of this Act, and that all such books shall be liable to be seized and forfeited, in whose-soever hands they shall happen to be found.]

[§ xiii.] § vi. And be it further enacted by the authority aforesaid, That every printer shall reserve three printed copies, of the best and largest paper, of every book now printed or reprinted by him with additions, and shall, before any public reading of the said book, bring them to the Master of the Company of Stationers in London, and deliver them to him, one whereof shall be delivered to the keeper of his Majesty's Library, and the other two to be sent to the Vice-Chancellors of the Universities respectively for the use of the public libraries of the said Universities.

[§ xiv. And forasmuch as printing in private places and corners in the cities of London and Westminster, and the suburbs thereof, may be carried on by journeymen and other inferior persons skilled in the art and mystery of printing and founding of letters, for the better preventing thereof, Be it enacted by the authority aforesaid, That in London the Court of Aldermen of the said City, and in Middlesex two of his Majesty's Justices of the Peace of the said County, upon any complaint to them made by any such journeyman or other person skilled in printing and founding of letters, that he hath offered himself to serve at some public press or presses, and cannot get employment, if upon examination they shall find such person duly qualified, and that he is willing to work and hath used his endeavour to get employment, they may send for such Master printer before them as they shall understand may have work or employment for more persons than he hath already in his service, and may thereupon make such order for the employing and setting to work such person at some public press as in their discretion they shall think reasonable, and if any such journeyman, or person or persons skilled in the art and mystery of printing and founding of letters shall refuse to work for the usual and reasonable wages at some public press, when required by some Master printer, the said Court

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of Aldermen or two Justices of the Peace of the said County of Middlesex, in their respective jurisdictions, are hereby empowered, upon complaint to them made, to imprison or send to the House of Correction such person so refusing, there to remain until he shall be contented to perform such reasonable order as they shall make touching the same.] [Read 1^a this day. L. J., XVI. 358. Sent to the Common on 28 Jan. *ib.* 368. The second reading was negatived on 1 Feb. C.J., XII. 468].

Annexed:—

(a) 23 Jan. Amended Clause A as follows: “And be it further enacted by the authority aforesaid, That from and after the said *twenty-fifth* day of *March*, no printer or owner of any printing-press, or that shall have any share or interest therein, shall, by himself, journeyman or servant, deliver or cause or suffer to be delivered out of his hands or custody any book, pamphlet or paper, by him, them or any of them printed or which shall be printed at his press, unless the true Christian and surname in words at length, together with the place of habitation of the publisher and owner of the press where such book, pamphlet or paper was printed, be expressed and mentioned upon the title-page of such book, pamphlet or upon such printed paper; and that if any such printer or owner of any printing-press, or that shall have any share or interest therein, shall not, when required by one of his Majesty’s Principal Secretaries of State, or by the Chief Justice of the Court of King’s Bench, Vice-Chancellor of either of the said Universities, or one or more Justices of the Peace in their respective jurisdictions, discover and make known the author of such book, pamphlet or paper by him, them or any of them printed, or the person that brought the same to be printed, with the place of his habitation or abode, That then the master and owner of the said press, and every person having any share therein, where such book, pamphlet or paper was printed, shall be subject and liable to the same punishment as by law might have been inflicted upon the author thereof.” [Agreed to as amended and added to the Bill as § iii. this day. MS. Min.]

1340. Jan. 9. Stanley v. E. Derby.—Petition of James Stanley and Charles Stanley, Esquires. Petitioners’ brother, the present Earl of Derby, in consideration of his mother relinquishing her dower of about 2,000*l.* a year out of her husband’s estate, for an annuity of 600*l.* a year, conveyed on 3 August 1677 certain lands in Lancashire and Yorkshire to trustees, for raising 100*l.* a year for each of Petitioners during their lives, the surplus going to himself. He ordered this sum to be paid until about two years since, when his mother petitioned the House for leave to sue him for her annuity, and since then he has only paid as he thinks fit, and is now in arrear, but keeps possession of the trust estate, contrary to the deed, and refuses to waive his privilege. Pray for leave to sue him in the Court of Chancery for recovery of the said annuity. L. J., XVI. 358.

Annexed:—

(a) 9 Feb. 1698-9. Answer of the Earl of Derby. The sub-joined copy of Respondent’s letter to Petitioners shows that he is ready to pay them what is due, if they will state their accounts, and that he neither did nor will stand on his privilege. The

Petition is unnecessary and frivolous. *Underwritten* is the letter above referred to, dated 1 Jan. 1698-9. *Endorsed* as read this day. MS. Min. 1698-9.
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No. 1340.

1341. Jan. 13. Lepell's Naturalisation Act.—Certificate that Mr. Nicholas Lepell received the Sacrament, according to the usage of the Church of England, in the Parish Church of St. James', Westminster on 25 Dec. 1698. *Signed* William Wake, Minister, Humphrey Dudson, Churchwarden. *Dated* eodem die. *Attested* by William Simonds and Richard Smart. [Read in Committee this day. Com. Book. The Bill was brought from the Commons on 10 Jan. Royal Assent 1 Feb. L. J., XVI. 358, 372. 10 Will. III. c. 6 in Long Cal.]

1342. Jan. 16. Writ of Summons (L. North and Grey).—Writ of Summons to William North and Grey, Chr. *Dated* 13 Jan. 1698-9. [Sat first this day, after the death of his father. L. J., XVI. 360.]

1343. Jan. 16. Writ of Summons (E. Nottingham).—Writ of Summons to Daniel, Earl of Nottingham. *Dated* 13 July 1698. [Took the oaths this day, L. J., XVI. 360.]

1344. Jan. 16. Griffith *v.* Anwill.—Petition and Appeal of Hugh Griffith, Gent. By Articles of Marriage made 12 May 1683 between Thomas Lloyd of Llandeskurn, co. Merioneth, Gent., of the one part, and Ellen Wynn, of Bodgadley, co. Carnarvon, widow, and Owen Wynn, her son, of the other part, it was agreed that Owen Wynn should marry Jane, daughter and heir of Thomas Lloyd, and that Ellen and Owen should settle certain lands, &c. on such persons as Lloyd should appoint, to the use of Owen for life, remainder to the sons and daughters by the marriage, in tail, with a proviso that the feoffees, so to be appointed, should stand seized of all the premises in case Jane should survive her husband, to the intent that she should receive 35*l.* a year for life in lieu of dower; there was also a covenant that Owen should pay Lloyd 800*l.* marriage portion. The marriage took place, and Owen paid the 800*l.*; but after co-habiting together a short time, Jane went and lived with her father remote from her husband, who since by deed granted her a separate maintenance. Lloyd never requested Owen and his mother to make the said settlement. Owen's mother died, whereby, for want of such request on the part of Lloyd, the estate comprised in the Articles came to Owen, her son and heir-at-law. Owen, long after his wife had left him, bought some other estate, and employed Petitioner in his concerns, and some years before his death resolved and declared to several persons that he would give him all his estate. To give effect to his resolution he granted to Petitioner all his personal estate by deed of bargain and sale of September 1694, and devised him all his real estate by will dated in the same month. Owen died in November 1694. Jane, about three months after her husband's death, married, without her father's consent, William Anwill, a person of no fortune, with whom, in April 1696, she brought a Bill of Complaint in the Chancery of the Court of Great Sessions of the counties of Carnarvon, Anglesey and Merioneth, held at Carnarvon, against Owen, the heir-at-law of the late Owen Wynn, and against Petitioner, to have the rent-charge of 35*l.* a year paid and secured. The Cause was heard at Beaumaris, on 18 August 1697, before John Hooke, Chief Justice of the said Court, who decreed that the late Owen's personal estate should

- 1698-9. be liable, in the first place, to payment of the rent-charge, and that
 — what it fell short, his real estate that came to his heir-at-law and that
 No. 1344. which was devised to Petitioner should answer, an account to be taken
 by the Registrar. Petitioner and Owen filed exceptions to this Report,
 on hearing which, John Hooke and Francis Lloyd, the other Chief
 Justice, on 25 April 1698, decreed that Petitioner should pay out of the
 late Owen's personal estate 105*l.*, being three years' arrears of the
 rent-charge, and the growing annuity as far as the personal estate, being
 400*l.*, would extend. Prays that the Deerees may be reversed, and
 Respondents ordered to answer. *Signed* by Appellant. *Countersigned*
Nath. Wright, Thomas Hobart. L. J., XVI. 360. [At the Hearing on
 20 Feb. the House took notice that the printed cases were not signed
 and that a false statement of fact appeared, and after hearing what
 Counsel had to say, decided to put off the Hearing till 24 Feb. The
 Appeal was heard on 24 Feb. and dismissed with 20*l.* costs. *Mr.*
Serjt. Wright and *Sir Thomas Powys* appeared for Appellant and
Mr. Dobyys and *Mr. Price* for Respondents. MS. Min. L. J., XVI.
 389-90.]

Annexed :—

- (a) 7 Feb. 1698-9. Answer of William Anwill, clerk, and Jane,
 his wife, widow of Owen Wynn. Thomas Lloyd's estate was
 worth 200*l.* a year, and Jane his only child, was 13 years
 old at the time of the marriage agreement. The estate agreed
 to be settled in trustees was worth 70*l.* a year. Lloyd settled
 all his estate according to the marriage articles. Owen proved
 unkind to his wife and ill-treated her, to the endangering
 of her life, and she left him by his express command, and he
 refused afterwards to co-habit with her again, preferring to make
 her an allowanee. This separation continued till his death, without
 issue, in 1694. Ellen and her son Owen did not execute any
 settlement of their lands, according to the marriage agreement,
 and Owen's fraudulent deeds and will in favour of Appellant were
 executed to deprive his wife of the benefit of that agreement, for
 a specific performance of which Respondents brought their Bill.
 Pray that the Deerees, which are just and equitable, may be
 affirmed with costs to Respondents. *Signed* by Respondents.
Countersigned Thomas Price. *Endorsed* as brought in this
 day.

1345. Jan. 17. Writ of Summons (D. Newcastle).—Writ of
 Summons to John, Duke of Newcastle. *Dated* 13 July 1698. [Took
 the oaths this day. L. J., XVI. 361].

1346. Jan. 17. Call of the House.—Letter from D. Beaufort, in answer
 to the L. Chancellor's letter of this day requiring his attendance forth-
 with. The writer's infirmities have for some years obliged him to keep
 home. "The necessary use of remedies has obliged me to take easy
 journeys, at a seasonable time of the year, and in those I have not
 been able to go the least out of my immediate road, though it forced me
 to go across the country, as the last year (when I had the accidental
 honour much to my satisfaction of seeing your Lordship at Tunbridge),
 going and returning then the nearest way I could to my own house,
 though I had occasions of concern to me that would have obliged
 me to have gone somewhat further about." Begs that his humble
 excuse may be offered to the House. *Dated* Badminton, 21 Jan.

1698. [The Duke was returned as absent on the 17th. L. J., 1698-9.
XVI. 362. The letter was read on the 21th and the Duke excused.
Ib. 365.] —
No. 1346.

1347. Jan. 17. *Webb v. Kirke*.—Petition and Appeal of Henry Webb, Executor of the last will and testament of Doctor Thomas Wood, late Bishop of Coventry and Lichfield. Sir Henry Wood in 1671, in view of the marriage, since effected, of his daughter Mary with the then Earl, now Duke of Southampton, conveyed all his lands to the then Earl of St. Albans, the late Bishop Wood, Sir Cæsar Cranmer and others, to the use of himself for life, and after his death, if the marriage took place, in trust for Mary and her husband and their sons in tail male, remainder to their daughters, and, failing issue, to such persons as he should appoint. Sir Henry made his will and confirmed the settlement, and in default of issue of his daughter by her husband, he gave his lands to his daughter for life, remainder to such issue as she might have by any other husband, and for default thereof, to his brother Dr. Thomas Wood for life and his sons in tail male, failing whom to Cæsar Cranmer for life, remainder to Charles Cranmer for life, with divers remainders over. Sir Henry died, and the marriage took place, and in October 1680 the Duchess died without issue, whereupon the Bishop took possession as first devisee, and, to be quieted in his possession, brought a Bill in Chancery to prove the will against Thomas Kirke and his wife Mary, the only child of John Wood, elder brother to the Bishop and so the heir-at-law to Sir Henry, who left him to prove the will and acquiesced upon his doing so. The Bishop, not knowing but that he had a good personal estate, nor conscious of being at all indebted to his niece Mary Kirke, left by his will considerable legacies to pious and charitable uses, amongst others, 3,000*l.* to buy lands for the use of the Junior Master Students at Christ Church, Oxford, and 100*l.* to the poor of Durham, Chester and Wickham respectively, and died on 19 April 1692, leaving Petitioner his sole executor. Mary Kirke, who lived at Hackney, bequeathed her copyhold estate there, as well as her personal estate, to her husband, and died on 1 April 1692, leaving him her executor. Petitioner proved the Bishop's will and paid part of the legacies to the amount of 1,969*l.* 10*s.* Thomas Kirke, who never pretended at that time any demand against Petitioner, brought a Bill against him in May 1696 claiming the rents of Sir Henry's estate from the death of the Duchess to that of his own wife, surmising that she was heir-at-law to the Duchess, on the ground that the devise to the Bishop could not take effect as long as the Duke lived. Petitioner in his answer insisted that whatever constructions of law had been lately made in a Cause between Thomas Webb and Sir Cæsar Cranmer, to which Petitioner was no party, the Bishop entered as devisee in his own right. In Nov. 1697 the Court, on hearing the Cause, declared Kirke entitled to the profits of Sir Henry's estate as claimed, and directed an account, on taking which the Master reported that 6,000*l.* had come to Petitioner's hands as executor, besides a chattel lease for 1,000 years of lands of 70*l.* a year, and that Petitioner claimed to be allowed 1,969*l.* 10*s.* for legacies paid. The Cause being further heard on 8 Dec. 1698 on this Report, the Court disallowed the said sum paid for legacies. Appeals from this Decree as to the 1,969*l.* 10*s.*, and prays that Thomas Kirke may be ordered to answer. *Signed* by Appellant. *Countersigned* Tho. Filmer, Dan. Feucault. L. J., XVI. 361. [At the Hearing on 16 Feb. *Sir Thomas Powys* and

- 1698-9. *Mr. Filmer* appeared for Appellant, and *Mr. Serjt. Wright* for Respondent. MS. Min. The Appeal was dismissed with 20*l.* costs. No. 1347. L. J., XVI. 385.]

Annexed:—

- (a) 27 Jan. 1698-9. Answer of Thomas Kirke. The Decree complained of is just. Prays that the Appeal may be dismissed with costs. *Signed* by Respondent. *Countersigned* Jo. Hawles. *Endorsed* as brought in this day.

1348. Jan. 19. Buttons Aet.—Petition of the Master, Wardens and Assistants of the Company of Gold and Silver Wire-drawers, in behalf of themselves and the rest of the said trade. Pray to be heard before the passing of the Bill to prevent the making or selling of buttons made of cloth, etc. *Signed* Robt. Rhodes, Master; Alex. Parratt, Francis Greene, Wardens; Hen. Southouse, Walt. Turner, Sam. Johnson, John Shaler, John Butler, Daniel Field, Nick. Pendlebury, Edward Page, Nath. Smith, Jonathan Cooke, Tho. Preece, Edward Barnes, Richard Taylor, Assistants. L. J., XVI. 363. [The Bill was brought from the Commons on 16 Jan. Royal Assent 1 Feb. L. J., 361, 372. 10 Will. III. c. 2. Fol. Ed.]

1349. Jan. 23. De Carcassonet's Naturalization Aet.—Amended Draft of an Aet for the Naturalization of John Francis de Carcassonet and others. The Bill is to naturalize John Francis de Carcassonet, son of Gad de Careassonet and Sophia Laije, his wife, born at Avignon, [Henry Masclary, son of Peter Masclary, by Charlotte Levasor, his wife, born at Paris], John James La Rouviere, son of Jeremie La Rouviere and Mary Vareilles, his wife, born at St. Germain in Languedoe, and Daniel Ravenel,* son of Daniel Ravenel and Emee de Febere, his wife, born at Vitray, in Bretagne. [Read 1^a this day. Royal Assent 24 March. L. J., XVI. 364, 416. 10 Will. III. c. 27 in Long Cal.]

Annexed:—

- (a). 28 Feb. 1698-9. Certificate that John Francis de Careassonet received the Sacrament, according to the usage of the Church of England, in the Parish Church of St. Anne, Westminster, on 5 Feb. 1698-9. *Dated* 6 Feb. 1698-9. *Signed* John Hearne, Minister, William Mouett, Churchwarden. *Attested* by John James De La Rouviere and Daniel Ravenel. [Read this day in Committee. Com. Book.]
- (b) 28 Feb. Similar Certificate as to John James De la Rouviere. *Dated* and *Signed* as preceding. *Attested* by J. F. de Careassonet and Daniel Ravenel. [Read this day in Committee. Com. Book.]
- (c) 28 Feb. Similar Certificate as to Daniel Ravenel. *Dated* and *signed* as above. *Attested* by De La Rouviere and J. F. de Careassonet. [Read this day in Committee. Com. Book.]

1350. Jan. 23. Hensbergh's Naturalization Bill.—Draft of an Act for the Naturalization of Remond Hensbergh. The Bill is to naturalize Remond, son of Adrian Hensbergh, by Appollonia Celes Caraffa, his wife, born in Brussels in Brabant. [Read 1^a this day. L. J., XVI. 364. No further proceedings on this Bill, but the name is mentioned in the Royal Assent to St. Pierre's Naturalization Bill. *Ib.* 416.]

* Spelt Ravonell in the Act.

1351. Jan. 24. Army (Disbanding, &c.) Act.—State of the Army in England in November 1685, viz. :—

1698-9.

No. 1351.

	Troops and Companies.	Commission Officers.	Non-commission Officers.	Servants.	Privates (excluding servants).	Together.
<i>Horse.</i>						
First troop of Guards and Grenadiers	2	17	14	22	242	295
Second " " "	2	14	13	18	246	291
Third " " "	2	14	13	18	246	291
Royal Regiment - - -	9	39	46	75	375	535
Queen Consort's Regiment - - -	9	40	46	75	285	416
E. Peterborough's " - - -	6	28	31	51	189	299
E. Plymouth's " - - -	6	28	31	51	189	299
L. Dover's " - - -	6	28	31	51	189	299
E. Thanet's " - - -	6	28	31	51	189	299
E. Arran's " - - -	6	28	31	51	189	299
E. Shrewsbury's " - - -	6	28	31	51	189	299
E. Searsdale's " - - -	6	28	31	51	189	299
V. Lumley's " - - -	6	28	31	51	189	299
<i>Dragoons.</i>						
Royal Regiment - - -	8	36	74	67	333	510
Queen Consort's Regiment - - -	6	28	56	51	249	384
Princess Anne's " - - -	6	28	56	51	249	384
<i>Foot.</i>						
First Regiment of Guards - - -	26	83	212	134	1,946	2,375
Coldstream Regiment of Guards - - -	13	43	106	69	971	1,189
Royal Regiment - - -	21	87	171	130	920	1,308
Queen Dowager's Regiment - - -	11	37	69	59	491	656
Prince George's " - - -	13	43	81	69	581	774
The Holland " - - -	13	43	81	69	581	774
Queen Consort's " - - -	11	37	69	59	491	656
Royal Regiment of Fusiliers - - -	11	37	91	59	491	724
(A Company of Miners to this Regiment)	1	2	4	4	36	
Princess Anne's Regiment (L. Ferriers').	10	34	61	54	446	595
Col. Henry Cornwall's Regiment - - -	10	34	61	54	446	595
D. Beaufort's " - - -	10	34	61	54	446	595
E. Bath's " - - -	10	34	61	54	446	595
D. Norfolk's " - - -	10	34	61	54	446	595
E. Huntington's " - - -	10	34	61	54	446	595
Sir Edward Hales's " - - -	10	34	61	54	446	595
Sir William Clifton's " - - -	10	34	61	54	446	595
16 non-regimented Companies - - -	16	47	98	77	723	945
Foot - - -	—	731	1,470	1,161	10,799	14,161
Horse - - -	—	348	380	616	2,906	4,250
Dragoons - - -	—	92	186	169	831	1,278
TOTAL - - -	---	1,171	2,036	1,946	14,536	19,689

Endorsed as brought in this day by Mr. Abbott. [Delivered this day, pursuant to Order of 19 Jan. L. J., XVI. 363.]

1698-9.

—
No. 1352.

1352. Jan. 24. Penne's Estate Act.—Amended Draft of an Act for enabling George Penne, Esquire, to sell lands for the payment of his debts and other purposes therein mentioned. The Lords' Amendments mainly consist of the insertion of Thomas Trenchard, William Strode, and Richard Broderipp as trustees; the limiting of the sum to be raised to 7,000*l.*; and the insertion of a provision for the younger children. The Commons inserted provisoes saving the rights of Dalby Thomas and Matthew Page. C. J., XII. 558. [Read 1^a this day. Royal Assent 24 March. L. J., XVI. 365, 416. 10 & 11 Will. III. c. 21 in Long Cal.]

Annexed:—

(a) 24 Feb. Lords' Amendments to the Bill. [Made in Committee Feb. 10 and 21. Com. Book. Reported this day. L. J., XVI. 389.]

1353. Jan. 27. Writ of Summons (E. Abingdon).—Writ of Summons to James, Earl of Abingdon. *Dated* 13 July 1698. [Took the oaths this day. L. J., XVI. 367.]

1354. Jan. 27. Wybergh v. V. Lonsdale.—Petition and Appeal of Thomas Wybergh. Thomas Wybergh, Petitioner's grandfather, mortgaged in 1640 for 700*l.* redeemable in 4 years the manor of Clifton, worth above 6,000*l.*, to Sir John Lowther, Respondent's grandfather. He duly paid the interest till his death in February 1646, leaving Petitioner's father, Thomas, then an infant, his son and heir, entitled to the equity of redemption. John Lowther, being mortgagee and also a trustee for Petitioner's father in the marriage settlement, entered on the mortgaged premises in 1647, by consent of Petitioner's grandmother, and in 1649 or 1650, besides the yearly rents, received above 400*l.* for a general fine of all the tenants, and above 200*l.* more by felling timber, whereby the mortgage was nearly satisfied. Petitioner's father, being reduced to great want by the Civil War, mortgaged to John Lowther in 1654 three other closes, parcel of the said manor, and worth 18*l.* a year, for 140*l.* 10*s.* 2*d.* John Lowther immediately entered upon part of the property and in 1665 entered upon the rest, in which year he conveyed part of the mortgaged premises to one James Bird. Petitioner's father died in 1670 in great want, leaving Petitioner an infant under seven years of age, his son and heir. In 1672, John Lowther raised altogether out of the property more than would satisfy the mortgages by above 2,000*l.* Petitioner by his mother brought a Bill in Chancery against him for redemption, and an attachment was executed against him for failing to appear, but Plaintiffs could not proceed further owing to their poverty. In November 1675 John Lowther died, leaving Respondent his heir and sole executor, who has held possession ever since. Petitioner in 1683 became of age, and in 1687 brought a Bill in Chancery against Respondent for redemption and an account, and on 8 July 1690 the Lords Commissioners dismissed his Bill as to the first mortgage on the ground of length of time, and decreed him a redemption of the second, subject to the payment of certain debts and contracts no ways relating thereto. The said dismissal and decree are contrary to equity and justice. The Court, in regard to the length of time pleaded by Respondent, should have considered the disability of Petitioner's grandfather and father to redeem in consequence of the Civil War, which was a general calamity, and also the infancy of Petitioner and his father. Prays that the dismissal and decree may be reversed, and John, Viscount Lonsdale, ordered to answer. *Signed* by Appellant. *Countersigned* Wm. Whitelocke,

Wm. Dobyns. L. J., XVI. 367. [At the Hearing on 4 April *Mr. Serjt. Wright* and *Mr. Dobyns* appeared for Appellant and *Sir Thomas Powys* and *Mr. Pooley* for Respondent. MS. Min. The Appeal was dismissed. L. J., XVI. 434.] 1698-9.
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No. 1354.

Annexed :—

(a) 10 March 1698-9. Petition of Appellant. Respondent has not yet thought fit to answer, though duly served with Order of 1 Feb. last. Prays for a day for hearing. [Read this day and Respondent ordered to answer 10 days. MS. Min. See also L. J., XVI. 410.]

(b) 27 March 1699. Answer of John, Lord Viscount Lonsdale, Baron Lowther of Lowther. Sets forth the substance of Appellant's Bill in Chancery. Respondent, in his answer thereto, pleaded that, as to the manor of Clifton and Townend tenement there were several mortgages made by Appellant's grandfather to Respondent's great-grandfather and grandfather. The redemption money which amounted to 700*l.* not being paid, and Appellant's grandfather dying in 1647, leaving a great arrear of interest, Respondent's grandfather took possession. In 1649 Appellant's father came of age, but though he lived till 1670, never offered to redeem the manor of Clifton, although in 1664 he brought a Bill to redeem the three closes, called Crooklands, Brownrigg, and High Close. After so long a time and quiet possession, Respondent's grandfather sold part of the first mortgaged lands and afterwards settled the remainder on Respondent at his marriage. Respondent has ever since enjoyed them. As to the redemption of the three closes, Appellant's father, after the forfeiture of the premises, became further indebted to Respondent's grandfather in several bonds, binding on himself and his heirs, for distinct sums, and Respondent's grandfather brought an action of ejectment in 1664, and obtained possession of the closes in 1665 and received the profits till his death in Nov. 1675, when Respondent, his grandson and heir, succeeded to them. Respondent was willing that Appellant should redeem the closes, provided he paid what was due on the mortgage and securities, and that Respondent was allowed such debts as were due to his grandfather at his death, and also the benefit of a contract made by Appellant's father with one John Clarke, which contract had been assigned to Respondent's grandfather. There was no milne, as alleged, contained in the mortgage or ever in his grandfather's possession. His grandfather was not a Parliament man at the time of the Bill, and never stood on privilege as such. Prays that the Appeal may be dismissed with costs. *Signed* by Respondent. *Countersigned* T. Powys, Hen. Poley. *Endorsed* as brought in this day.

1355. Jan. 28. Corn, &c. Exportation (Prohibition) Act. — Commons' Reasons for disagreeing to certain of the Lords' Amendments to the Bill against the exportation of Corn, Malt, Meal, Flour, Bread, Biscuit, and Starch, for one year. [Reported from the Committee of the Commons on 27 Jan. and communicated to the Lords at the Conference this day. C. J., XII. 462, 463. *In extenso*. L. J., XVI. 368. The Bill was brought from the Commons on 16 Jan. L. J., XVI. 361. It was amended in C. W. H. on 19 Jan., when the Commissioners of Customs were heard. The gentlemen concerned for the Islands of Jersey and Guernsey say: "In the islands we are supposed to be

1698-9. 3,000 persons." M.S. Min. Royal Assent 1 Feb. L. J., XVI. 372.
10 Will. III. c. 3. Fol. Ed.]

No. 1355. Annexed:—

(a) 28 Jan. 1698-9. Duplicate of preceding.

(b) 30 Jan. Lords' Reasons for insisting on certain of their Amendments. [Reported and Ordered to be delivered at the Conference this day. L. J., XVI. 370. *In extenso*.]

1356. Jan. 31. Ogilvy's Naturalization Act.—Certificates that the following persons (named in the Act) had received the Sacrament, according to the usage of the Church of England, viz. :—

(1.) Bartholomew Ogleby (*sic*), on 15 Jan. 1698-9, at the Parish Church of St. Martin's, Westminster. *Signed* Tho. Yates, A.M., Curate, Fra. Boteler, Churchwarden. *Dated* 15 Jan. 1698-9. *Attested* by Philip Chenevix and Paul Monginot Fronchay.

(2.) Reinier Shuelen, on 25 Dec. 1698, at the Protestant High German Church in Trinity Lane, London. The Certificate adds that he is a true Protestant from Hamburg, and a member of the said Church. *Signed* John Esdras Edzard, Minister. *Dated* 19 Jan. 1698-9. *Attested* by August Sigismund Jonas and Peter Willeke.

(3.) John Hopke. *Attested* by James Gordon and Jeremiah Crowther. Rest as in (1.).

(4.) Henry Monck, on 15 Jan. 1698-9, at the Parish Church of St. Andrew's, Holborn. *Signed* T. Manningham, D.D., Minister, Fran. Higgins, Churchwarden. *Dated* 15 Jan. 1698-9. *Attested* by John Moore, of the parish of St. Leonard's, Shoreditch, Gent., and John Taylour, of the parish of St. Mary-le-Strand, Cl.

[Read in Committee this day, when the name of Henry Timperley, an infant about ten years old, was added. Com. Book. The Bill was brought from the Commons on 23 Jan. Royal Assent 1 Feb. L. J., XVI. 364, 372. 10 Will. III. c. 7 in Long Cal.]

1357. Feb. 1. King's Speech (Dutch Guards, &c.).—Draft of King's Speech this day about his Dutch Guards and disbanding the Army. L. J., XVI. 372. *In extenso*. [The Speech being read, it was *moved* to appoint a day for considering it. *Ordered* that the Speech be considered on Saturday next. MS. Min. L. J., XVI. 372.—On 4 Feb. the Speech being read again, a Select Committee was appointed, on motion, to draw an Address of Thanks upon the debate. This Committee, E. Rochester in the Chair, reported the Address the same day. Com. Book. It was agreed to by the House on Report, and ordered to be presented to the King. MS. Min. L. J., XVI. 374.—On 7 Feb. the House went into Committee on further consideration of the Speech. E. Bridgewater in the Chair. Paragraphs 1, 2 and 3 read. *Proposed* to consider the Fleet and the security of Forts, &c.* *Proposed* to name a Committee to consider by what Parliamentary methods the Guards that came over with the King may not be removed from his person for the year 1699. House resumed. MS. Min. L. J., XVI. 376.—On 8 Feb. in C. W. II., E. Bridgewater in the Chair, *Question* proposed: That upon consideration of his Majesty's

* For more on this subject see No. 1372. (Fleet and Fortifications.)

Speech, this Committee is of opinion that they are ready and willing to enter into any expedient that shall be thought proper, and consisting with the forms of Parliament, for retaining near his Majesty's person for the year 1699 those Guards who came over with his Majesty to our assistance and have constantly attended him in all the actions wherein he has been engaged. *Proposed* to put the Question for resuming the House. After debate. *Question* put: Whether the House shall be resumed? Resolved in the *Negative*. Contents 41; Not Contents 52. Tellers, E. Peterborough and E. Tankerville. *Main Question* put as above. Resolved in the *Affirmative*. House resumed. E. Bridgwater reported the *Resolution* as above, which was read by the Clerk, and, being amended, was read again, vizt. "That upon consideration of his Majesty's Speech, as a particular mark of their respect and duty to his Majesty, this Committee has thought fit to declare that they are ready and willing to enter into any expedient that shall be thought proper, and consisting with the forms of Parliament, for retaining near his Majesty for the year 1699 those Guards who came over with his Majesty to our assistance, and have constantly attended him in all the actions wherein he has been engaged." *Question* put: Whether this House will agree with the Committee in this Vote, as it is amended? Resolved in the *Affirmative*. Contents 54; Not Contents 38. Tellers not recorded. MS. Min. L. J., XVI. 377.]

1698-9.

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No. 1357.

1358. Feb. 3. Spirits (Distillation from Corn) Act.—Petition of the distillers in and about London. Petitioners, who are more than 200 distillers, understand how to make spirits and brandy from malt as well as those who now make the same, who are about 20 persons, but at present the Petitioners are the sole buyers of malt spirits, and make the same fit to be consumed in kind and fit for the use of several handicraftsmen, who cannot finish their manufactures without it, by re-distilling and rectifying the same malt spirits and making the same clear and better for those purposes, which is Petitioners' livelihood. The now makers of malt spirits, knowing that Petitioners could make the same as well as they, and that Petitioners understood the value thereof by the price of malt, have always, till of late, afforded Petitioners their malt spirits at moderate prices. But since the Bill was brought into the Commons to prohibit the distilling brandy and spirits from corn, the makers of malt spirits have exacted from several of Petitioners 6*l.* a tun more than before, although malt was at the same price as formerly. A clause in the Bill now before the House, empowering those 20 persons exclusively to distil brandy and spirits from malt, will cause the good intent of the Bill to be evaded, without relieving the poor housekeeper, since those persons may then distil brandy and spirits from malt, when the same is at 40*s.* or 50*s.* a quarter, and for their own private gain impose unreasonable prices on Petitioners, to the ruin of many of them. Pray to be heard by Counsel, and that a clause may be added for their relief. *Signed* by Thomas Harewell and 52 others. L. J., XVI. 373. [The Bill to prohibit the excessive distillery of spirits and low wines from corn, and against exporting beer and ale, and to prevent frauds in distillers was brought from the Commons on 28 Jan. L. J., XVI. 368. In C. W. H. on 15 Feb., the Bishop of Salisbury in the Chair, Counsel were heard for the above and other Petitioners. *Mr. Dobyms* (for the Distillers of London): There is a clause for carrying on the trade, but no person shall distil, but such as are provided in the Bill. My clients are not the first distillers, but refiners. We hope we shall not lose our trade

- 1698-9. for one year. *Mr. Jones* (for same) is heard, and offers a clause.*
 — *Sir Thomas Powys* (for working distillers), is heard in opposition to
 No. 1358. the city distillers. *Mr. Filmer* (for same): We are concerned for all
 the distillers in England. We have taught the nation the profitable
 use of eorn. *Sir William Whitelocke* is heard, and offers two provisoes
 for several persons. Counsel withdraw. The clause offered for the
 London distillers is read. Title of Bill read and postponed. Preamble
 read and agreed. First enacting clause read. Skin 1, l. 20. Leave
 out ("which shall be"). The clause agreed to. The other clauses
 agreed to, to the end of the Bill. The clause offered for the London
 distillers read and laid aside. The clause for Charles Bennett read
 and agreed to.† The clause for Parker and Dent read and agreed to.†
 Title read and agreed to. Bill reported with amendments. MS. Min.;
 L. J., XVI. 384. The Commons agreed to these amendments, except
 the proviso relating to Parker, &c. C. J., XII. 535. The Lords, after
 a Conference, did not insist upon the proviso in question. L. J., XVI.
 394. The Bill received the Royal Assent on 24 March. *Ib.* 416.
 10 Will. III. c. 4. Fol. Ed.]

Annexed :—

- (a) 4 Feb. 1698-9. Petition of Edward Parker, distiller. Petitioner has been a distiller in the City of London and suburbs for above 27 years, and has distilled great quantities of spirits from malted corn. He has lately laid out above 4,000*l.* in erecting a distillery, in which he can wet above 200 quarters of malt a week, and from malted corn only can distil weekly above 10 tuns of spirits. But being engaged during the late war to supply his Majesty with great quantities of beer for the Navy, he employed his distillery for that purpose only, and omitted the distillery of spirits all last year, whereby he will be excluded, if the Bill passes as it is, from distillery for the future, to his utter ruin. Prays to be allowed to preserve his utensils for the distillery, and to distil half the quantity above mentioned weekly, which cannot be supposed, being so small, to advance the price of barley, the prevention of which is the chief intention of the Bill. *Endorsed* as read this day. L. J., XVI. 373, 374.
- (b) 6 Feb. Petition of the Distillers from Malted Corn. Petitioners, immediately after the passing of the Act for encouragement of tillage by promoting the distilling brandy and spirits from malted corn, built at very great cost distilling-houses, and provided stills, baeks and other utensils for carrying on the trade, which they have brought to great perfection. The Commons, in consideration of Petitioners' merits, have allowed them, in the present Bill, to distil half as much low wines and spirits for the time therein mentioned as they did during the year ending Michaelmas, 1698. Pray to be heard by Counsel in answer to the buyers and retailers of malt spirits. *Signed* Wm. Holland, Rich. Staples, Peter Hagar, Samuel Panier, Wm. Estwiek, Chas. Bennit, Wm. Markly, Jo. Howe, Daniel White, Israel Wilks, George Baker, John Freeman. *Endorsed* as read this day. L. J., XVI. 375.
- (c) 10 Feb. Petition of Charles Bennett, distiller. Petitioner, upon the encouragement of the Act for promoting tillage by distilling spirits and brandy from malted corn, erected at great cost a distilling-house and prepared other necessities for carrying on

* Annex (e) below.

† Annex (g) below.

the trade, which he has followed for the last five years, but in March last he removed his stills, back, coolers and other utensils to an adjacent house, and there followed the trade. Petitioner understands that there is a clause in the Bill to restrain the distillery of corn in any distillery but what was erected and employed during the year ended Michaelmas, 1698. Petitioner conceives that the intent of this Act is not to prevent any man from distilling, who was in the trade in the time mentioned. Prays for leave to distil half the quantity of low wines he did during that year, although it is not in the same distillery, and to be heard by Counsel. *Endorsed* as read this day. L. J., XVI. 379.

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No. 1358.

(d) 11 Feb. Petition of Thomas Dent and John Hall, distillers from malted corn. Petitioners have served apprenticeship to the trade of distilling malted corn only, and have erected distilling-houses and prepared utensils for the trade, which they have followed from Michaelmas last. Dent has distilled 60 quarters and Hall 40 quarters a week. The Bill, excluding Petitioners, will be their utter ruin. Pray to be heard by Counsel. *Endorsed* as read this day. L. J., XVI. 381.

(e) 15 Feb. Draft Proviso marked A, as follows:—"Provided always and be it enacted by the authority aforesaid, That when malt made of barley shall be publicly sold in public market at the same price it was when the Parliament thought fit to give bounty money to export the same, besides the duty, That then it shall and may be lawful for any free distiller to distil any quantity of brandy or spirits from such malt, anything in this Act contained to the contrary notwithstanding, so as such malt shall be and continue in such public market 24 hours before any distiller or other person for him buy the same malt, to the intent the maltster or his factor may sell the same malt to any brewer that will buy the same at a greater price." *Endorsed* Distillers of London Clause. Laid aside 15 Feb. 1698.

(f) 15 Feb. Engrossment of preceeding.

(g) 15 Feb. Paper containing two Provisoes, marked B and C. Proviso B is identical with §xv. of the Act. Proviso C* is as follows: "Provided always that nothing in this Act contained shall extend to prevent or hinder Edward Parker, Thomas Dent and John Hall, Distillers, from drawing or distilling spirits or low wines from wort or drink brewed from malted corn, but that they and every of them shall and may draw and distil low wines and spirits from any malt, corn or grain or from the produce thereof during the said term of a year commencing from the said last day of January 1698 and ending the 1st day of February 1699, in proportion to the works and distilleries, in such quantities and manner as his Majesty's Commissioners of the Exeise for the time being shall direct and appoint." *Endorsed* as added to the Bill this day. *Noted* Mr. Baker and Wm. Holland's Distillery cost 1,900*l*.

(h) 15 Feb. Engrossment of two last Provisoes. In the first one above, ("worts") is here written for ("wort") and ("thirtieth day of September") instead of ("thirtieth of September.")

* Referred to in the printed Journals, both of the Lords and Commons, as Proviso B. The difference in lettering is caused by the omission of Clause A. (Annex (c) above). B and C became A and B when the original Clause A was laid aside.

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(i) 15 Feb. Engrossed Proviso marked B. Identical with the Proviso marked originally C, in Annex (g) above. *Endorsed* Commons dissent to it, and Lords do not insist.

(k) 2 March. Commons' Reasons for disagreeing to Proviso B. (Annex (i) above). [Agreed to, on report, in the Commons on 1 March. C. J., XII. 535. *In extenso*. Reported to the Lords from the Conference this day. L. J., XVI. 394.]

1359. Feb. 4. Warre v. Praed.—Petition and Appeal of William Warre, Gent. In 1680, Daniel Gates sent the ship *Old African*, whereof he was sole owner, with great sums of money and effects to Zante and the Morea to bring home a cargo of currants, and consigned the ship's audit, &c. to John Praed for that purpose. Praed, then living at Zante, bought a cargo of currants with the money and effects, and consigned it to Gates, and in 1681 sent him an account, owning himself satisfied with the cargo. In 1682, Praed came to England, and, several years after Gates' death in 1689, brought a Bill in Chancery against Agnes, his widow, and Appellant for an account of the currants. On 5 Dec. 1691 he obtained a decree, ordering Defendants to pay what should be found due by a Master, but allowing them to have a Commission to examine their witnesses as there should be cause. Defendants having moved the Lords Commissioners on 25 Feb. 1691-2 for a Commission to examine their witnesses at Venice, Zante and the Morea, were refused the same. The decree of 5 Dec. 1691 was affirmed by the House of Lords on 27 Jan. 1692-93.* The Master on 17 Jan. 1693-4 reported 6,404*l.* 9*s.* 7*d.* due. This report was referred back to him by the Lord Chancellor on 20 April 1694, but Praed, without procuring any further report, obtained an order for rehearing exceptions, and on 24 July 1696 his Lordship ordered a Commission to issue out beyond sea for better clearing of the account, but afterwards, on 21 Jan. 1696-7, on Praed's petition, discharged that order, and further ordered that Praed should apply for a day to reargue the exceptions, and that Defendants should be at liberty to petition the House to explain their Order of 27 Jan. 1692-3 about the Commission. The Lord Chancellor on 5 May last overruled the exceptions, and confirmed the report, and Appellant was thus prevented from applying to have his Commission. Prays that the decretal order of 5 May last may be reversed, or that Appellant may be relieved by an issue at law to be tried or by explaining their Lordships' Order as to the Commission. *Signed* by Appellant. *Counter-signed* P. Bowes, Tho. Dyose. L.J., XVI. 374. [The Appeal was dismissed on 28 Feb. when *Sir Thomas Powys* and *Mr. Dyose* had been heard for Appellant and *Mr. Dobyns* and *Mr. Pratt* for Respondent.† MS. Min. L. J., XVI. 392.]

Annexed:

(a) 20 Feb. 1698-99. Answer of John Praed. Appellant in 1692 presented his Appeal to the House to reverse the decree and other orders in Chancery, chiefly for that it was decreed that a Commission should issue, should there be cause, and that an order of 25 Feb. 1691-92, made after the account had been proceeded with before the Master, refused Appellant a Commission for examining his witnesses, and that Respondent had owned himself satisfied for the cost of the currants. The House dismissed this Appeal with 20*l.* costs. Respondent has prosecuted

* L. J., XV. 204. See also Hist. MSS. Commission 14th Report, No. 649.

† On this occasion an Order was made, That for the future when any Cause is appointed to be heard the Cause shall be heard the first business.

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No. 1359.

Appellant with process of contempt to a sequestration for non-payment of the sum decreed in Chancery, but Appellant, to defraud him, has since his committal to the Fleet compounded for his liberty, although ordered to be confined close prisoner, and has absconded and concealed his estate. Appellant's reasons for appealing are the same as in his former Appeal. Prays that the Appeal may be dismissed with costs. *Signed* by Respondent; *Countersigned* John Pratt. *Endorsed* as brought in this day.

- (b) 24 Feb. Petition of Respondent. Repeats statements in preceding. Prays that Appellant may be compelled to appear in person and answer his contempt and give security to perform the decree, should their Lordships affirm it, and that an early day may be appointed for hearing. L. J., XVI. 389.

1360. Feb. 6. Bridges' Estate Act.—Amended Draft of an Act for the vesting and settling the estate of Anne Bridges, an infant, in Bermudas, alias the Summer Islands in America in and upon trustees, to be sold, and laying out the money arising by such sale [here] in England for the use of the said Anne Bridges. The only amendment made by the Lords was the omission of the word "here" marked above in the title. [Read 1^a this day; Royal Assent 4 May. L. J., XVI. 375, 466. 11 Will. III. c. 71 in Long Cal.]

1361. Feb. 6. Holmes v. Peacock.—Petition and appeal of Thomas Holmes, Esq. Richard Peacock in 1684 married Appellant's daughter Anne on Appellant's promise to pay 1,000*l.* marriage portion in consideration of 200*l.* a year settled on Anne as a jointure. Before the deeds could be perfected, the troubles broke out in Ireland, and Richard went to England, where he died without issue in 1690. His widow married William Butler, Esq., in 1694, and they brought a Bill in Chancery in Ireland against James Peacock and Samuel Brogden, Richard's executors, for the 200*l.* a year, and got possession. The executors, on their part, brought a Bill against Petitioner for 500*l.* left unpaid out of the 1,000*l.*, which 500*l.* the latter alleged was agreed to be returned to him if either Richard or Anne died without issue. The execution of the deeds had been also further delayed because the lands from which the jointure was to be paid were in the possession of Richard's uncle, George Peacock. The point whether the 500*l.* was to revert to Petitioner was referred to a jury at the Limerick Assizes in 1698, in a feigned action, a jury of 48 being named out of the Grand Panel by John Ussher, Esq., one of the Masters; and though only eight appeared yet a *tales* was awarded, and a verdict given against Petitioner, through the influence of a powerful man and of the Sheriff. Sir John Coghill, Knt., one of the Masters, stated the Account, whereby, after the usual abatement on account of the troubles, Appellant was found to owe 1,200*l.* for principal and interest at 10 per cent. Appeals against the Order pronounced on the verdict, because he was not liable for interest, as James Peacock had had his remedy at Common Law all the time, and the money was not payable until the execution of the deeds, which had never been perfected, and because the 500*l.* was repayable to Petitioner in the case above mentioned. Prays that James Peacock may be ordered to answer, and for stay of proceedings. *Signed* by the Appellant. *Countersigned* Robert Price, Sim. Harcourt. L. J., XVI. 375. [The Appeal was dismissed on 28 May 1701, *Sir Thomas Powys* and *Sir Bartholomew Shore* appearing as Counsel for the Appellant. and *Mr. Cooper* and *Mr. Chesshyre* for the Respondent. L. J., XVI. 710. MS. Min.]

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Annexed :—

No. 1361.

(a) 27 April 1699. Answer of James Peacock, surviving excutor of Richard Peacock's will. The trial at law was impartial, as Respondent is an Englishman by birth and education, having little interest and being a stranger in Ireland. Appellant was at first satisfied with the Order appealed from, only praying for time to perform it. The abatement allowed him was two years instead of the usual one of a year and a half. Prays the Appeal may be dismissed with costs. *Signed* by Respondent. *Countersigned* Hen. Poley, Jo. Chesshyre. *Endorsed* as brought in this day.

(b) 25 March 1701. Petition of same for a day for hearing in the beginning of May, as Appellant has not proceeded in the Appeal, which thus appears to have been only brought for delay. *Signed* Ja. Peacock. *Endorsed* as read this day. *Ordered* to be heard 5 May next.

1362. Feb. 7. Rabesnicres and others Naturalization Act.—Draft of an Act for the naturalization of Theophilus Rabesnicres and others. No amendments in the Lords. The Commons amended the Bill by adding two names, viz. Isaac Francis Petit and Theophilus du Chesne. (*See Annex (b)* below). [Read 1^a this day. Royal Assent 24 March. L. J., XVI. 376, 416. 11 Will. III. c. 20 in Long Cal.]

Annexed :—

(a) 27 Feb. Certificates that the following persons had received the Sacrament, according to the usage of the Church of England, viz. :—

- (1.) Lieut. Col. Theophilus Rabesnicres, on 8 Jan. 1698-9, at the Parish Church of St. Martin-in-the-Fields. *Signed* Will. Lancaster, D.D., Minister, Fra. Boteler, Churchwarden. *Dated* 8 Jan. 1698-9. *Attested* by Louis Costard de Ligniere and François de Rusane.
- (2.) Louis Costard de Ligniere, on same date, at same place. *Signed* and *dated* as preceding. *Attested* by Th. Rabesnicres and François de Rusane.
- (3.) Capt. François de Rusane, on same date, at same place. *Signed* and *dated* as preceding. *Attested* by Th. Rabesnicres and Louis Costard de Ligniere.
- (4.) Lewis Royrand [Rognaud in the Act] Les Clouseaux, Gent., on 25 Dec. 1698, at the French Church in Berwick Street, St. James'. *Signed* Antony Fornes, Minister, Louis de Gaillard, Churchwarden. *Dated* 12 Jan. 1698-9. *Attested* by Charles Testard and Peter Haye.
- (5.) Nicholas De La Noe, on 12 Feb. 1698-9, in the Parish Church of St. James', Westminster. *Signed* Will. Wake, Minister, Hum. Dudson, Churchwarden. *Dated* 12 Feb. 1698-9. *Attested* by Rivers Bennett and William Simonds.

[Read in Committee this day. Com. Book.]

(b) 16 March. Similar Certificates as to the following, added to the Bill by the Commons, and agreed to by the Lords this day. L. J., XVI. 405, viz. :—

- (6.) Isaac Francis Petit, on 5 Feb. 1698-9, at the Parish Church of St. Martin's, Westminster. *Dated* 5 Feb. *Signed* Tho. Yates, A.M., Curate, Fra. Boteler, Churchwarden. *Attested* by Jean Chardellon and Lewis Petit.

- (7.) Theophilus du Chesne. On 12 March 1698-9. *Dated* 1698-9.
 12 March. *Signed* as above. *Attested* by L. Rival and
 Paul d'Arundel d'Ancourt. —
 No. 1363.

1363. Feb. 8. V. Say and Seale's Privilege (N. Fletcher).—Petition of Nathaniel, Viscount Say and Seale. Petitioner's late father William being drawn in to marry Katherine, daughter of Edward Walker, of Banbury, Petitioner, by the advice of his relations, went abroad to travel, where he now is. Walker and his daughter, after having removed all the old servants from Petitioner's father, and placed others about him fit for their purpose, obtained conveyances of great part, if not all, of the estate left in the family, and imposed a will upon him, when wholly incapable. Since his death on 9 Dec. last, Lady Say and Seale and her agents have attempted to get possession of all the writings belonging to Petitioner's estate, and have made entries thereon, and by one Nicholas Fletcher, an Attorney, have delivered above 30 declarations in ejectment, and have cited Petitioner into the Prerogative Court to prove the pretended will (one Clements being concerned also in the prosecution), and declare they will proceed. Petitioner, who intends to return to England forthwith, is likely to be ousted of his estate by these proceedings, which are injurious to Petitioner and done sitting the Parliament. Prays their Lordships' consideration of the premises. *Signed* Nat. Say and Seale. *Endorsed* as read this day. MS. Min. [The House, being informed this day upon oath that Nicholas Fletcher had delivered several declarations in ejectment to Lord Say and Seale's tenants during the time of privilege, Ordered him to be attached. L. J., XVI. 377. On 27 Feb. the House was moved to examine Daniel Wickham, who had to attend Lincoln Assizes. He was told the House peremptorily required him to attend on Thursday. On 2 March Counsel were called in and heard on the Petitions of V. Say and Seale and Viscountess Dowager Say and Seale. A chair was set for Lady Say and Seale at the end of the Table. *Mr. Northey* was heard for the lady. We desire the lady may be restored to the same possession she was in at my lord's death, and liberty to proceed. *Wm. Dundrell* (sworn) says my lady was in possession at my lord's death. One Mr. Wickham came and desired the possession. They threatened the tenants and they attorned. I had the key and refused to deliver it. I found them in the house. I heard not of the Lord Say's death till Mr. Wickham came in. I heard not from my lady. It stood empty two years. *Mr. Sloane* says the Attorney owns he took the possession by force. *Sir Thomas Powys*, for Mr. Fiennes, We hope privilege may be allowed until my lord comes. *William Andrews* (sworn) says the writings are secured. I took possession for my lord. The key was delivered [to] my lady's agents. Mr. Wickham is heard. Lady Say and Seale's Petition was dismissed. MS. Min. On 6 March a Petition (Annex (d) below) from Fletcher having been read, he was reprimanded and discharged. L. J., XVI. 395. On 11 March 1700 a Petition was received from Lady Say and Seale praying that Lord Say and Seale might pay her the arrears of her rent-charge. *Ib.* 619. On 29 April 1701 an agreement between the parties was approved by the House. *Ib.* 665.]

Annexed :—

- (a) 8 Feb. Cover endorsed "Declaration and Affidavits concerning L. Visc. Say and Seale. Read 8 Feb. 1698." [See next three Papers.]
 (a)¹ 8 Feb. Declaration of ejectment, dated Michaelmas 10 Will. III., against Ambrose Ash, late of London, Yeoman.

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—
No. 1363.

Underwritten is a note from Ash to John Kendall, advising him, as being in possession of a claiming title to the premises, in regard to which Ash is sued only as a casual ejector, to appear in the Court of King's Bench, and be made Defendant in his stead, otherwise Ash will suffer judgment to be entered against himself. [Enclosed in preceding.]

(a)² 8 Feb. Affidavit of John Kendall, of Scunthorpe, in the parish of Frodingham, co. Lincoln, Yeoman, that for some time before 1 Jan. last he was tenant to L. Say and Seale and farmer of his Lordship about 14*l.* a year in the Lordship of Bromby, co. Lincoln, and that about 16 Jan. he had the annexed declaration of ejectment delivered to him by one Mr. Fletcher, who told him that, if he would not attorn tenant to the lady of the late L. Say and Seale, he would let his farm to some other person. [Enclosed in (a) above.]

(a)³ 8 Feb. Affidavit of Edward Serby, of Ashby, co. Lincoln, Labourer, that he has been since 1 Jan. last a servant to the present L. Say and Seale, and lived in his Lordship's manor house at Bromby; and that about 17 Jan. Mr. Fletcher came there, with some others, and told Deponent and the other servants that, in case they held possession for the present Lord, he would send them all to gaol; and that since then about thirty declarations of ejectment have been delivered to the tenants, by order, as Deponent believes, of Mr. Fletcher, who would have had his Lordship's tenants pay rent to him for the Lady Katherine. [Enclosed in (a) above.]

(b) 16 Feb. Petition of Katherine, Viscountess Dowager Say and Seale. Petitioner's late husband having settled on Petitioner about 600*l.* a year, subject to a debt of 2,300*l.*, with arrears of interest, and having made her by his will sole executrix, she caused his Lordship's body to be carried from London to be interred at his seat at Broughton, in Oxfordshire, and spent great sums on his funeral. Immediately after his death, several persons, by the direction of Wm. Fiennes, Esq., and Councillor Filmer, possessed themselves of the mansion-house of Broughton, and all deeds &c., and refused to let the corpse be brought into the house, and have since forcibly taken possession of the house and estate in Lincolnshire of about 300*l.* a year, being part of the 600*l.* settled on Petitioner. They have endeavoured to support these proceedings by privilege, and have presented a Petition accordingly, on behalf of the present Lord, and taken Fletcher into custody. Prays for relief. *Signed* K. Say and Seale. *Endorsed* as read this day. L. J., XVI. 384.

(c) 20 Feb. Affidavit of John Millward, that he went, by order of the Viscountess Dowager, from London to Bromby, in Lincolnshire, to bring up one William Dundrell to be examined for her Ladyship in the House, but that Dundrell on the 13th instant refused to come. *Endorsed* as read this day.

(d) 6 March. Petition of Nicholas Fletcher, an Attorney-at-law. Petitioner delivered declarations in ejectment by the directions of the Viscountess Dowager Say and Seale, but was ignorant of her pretensions to the estate, or that his Lordship, the present Lord would insist upon privilege, being beyond sea. Begs pardon for his offence. and prays to be discharged without fees, in order to attend his clients' Causes at the next Assizes. *Endorsed* as read this day. L. J., XVI. 305.

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No. 1364.

1364. Feb. 8. Vyner's (Creditors' Relief) Act.—Amended Draft of an Act for the relief of the Creditors of Sir Robert Vyner, Knt. and Bart., deceased. The Lords' Amendments were to insert the date and to add two Saving Clauses (Annexes (b) and (c) below). [The Bill was read 1^a this day. Royal Assent 24 March. L. J., XVI. 377, 416. 11 Will. III. c. 19 in Long Cal.]

Annexed :—

(a) 24 Feb. Lords' Amendments to the Bill. [Made in Committee and reported this day. Com. Book. L. J., XVI. 389.]

(b) 24 Feb. Draft Clause relating to accounts between Sir Robert Vyner and Bridget, Marchioness of Carmarthen. [Added in Committee and reported this day. Com. Book. L. J., XVI. 389. The Clause had previously been offered in the House by the L. President. It was referred to the Committee and inserted in the Bill on 27 Feb. Com. Book. MS. Min.]

(c) 24 Feb. Draft of General Saving Clause. [Added in Committee and reported this day. Com. Book. L. J., XVI. 389.]

1365. Feb. 9. *Sheffield v. Betts* (Privilege).—Petition of John Sheffield, Gent., Under Sheriff to Edmund Godwin, Esq., late Sheriff of the County of Essex. A writ of *Fieri facias* was brought to Petitioner, at the suit of Luke Betts, against Christopher Monk, Esq.; upon which Petitioner, at the Plaintiff's request, but not knowing his design, issued the High Sheriff's warrant directed to John Bastable and Christopher Cotterell, bailiffs of particular hundreds, from whom Petitioner or the said High Sheriff are not sufficiently secured. The bailiffs and one Robert Neale, an Attorney, out of lucre to themselves and under colour of the warrant, together with Luke Betts and Walter, his brother, without Petitioner's knowledge or direction, entered the capital house of E. Montagu, at New-Hall, co. Essex, and pretended to seize goods there by virtue of the execution, but left, on being told that the Earl had privilege. Since then, an action is brought by Luke Betts, and promoted by his Attornies or Solicitors Wm. Bailey, James Parke and one Rhodes, against the High Sheriff, to whom Petitioner is answerable. Prays to be protected and indemnified. *Endorsed* as read this day. L. J., XVI. 378. [Betts was heard at the Bar on 10 Feb., and Betts, Neale, Parke, Bailey and Rhodes (Attornies) and Bastable and Cotterell (bailiffs) ordered to attend. *Ib.* 380. On 13 Feb. the House was informed by E. Montagu that the persons complained of in Sheffield's petition had applied themselves to his Lordship and would give the House no further trouble. MS. Min.]

1366. Feb. 9. Russia Trade Act.—Petition of the Company of English Merchants for discovery of New Trades, commonly called the Russia Company. The Bill for enlarging and improving the trade to Russia is highly prejudicial to Petitioners. Pray for further time to be heard against the Bill, their papers being in the hands of their Counsel, who formerly argued their case before the House, and whose attendance on the day fixed for the second reading they cannot be sure of, it being so near the end of the term. *Signed* Ben. Ayloffe, Governor, Charles Thorold, Geo. Grove, Thomas Sandes, Joseph Woolfe, Consuls, Wm. Jolliffe, Tho. Hawes, Tho. Garway, Stephen Scott, Henry Phill, Jo. Woolfe, Ben. Coles, Tho. Scott, Edward Grace, Geo. Cooke, Tho. Stiles, John Pindseeke, Tho. Niccolls, John Pouldon, John Edwards, Rand. Knipe, John Freeman, Thomas Betton. *Endorsed* as read this day. L. J., XVI. 378.

[The Bill was brought from the Commons on 4 Feb. *Ib.* 374. On 21 Feb. *Mr. Serjt. Wright* and *Sir Thomas Powys* were heard for

- 1698-9. the Russia Company's Pctition against the Bill. *Mr. Woolfe* (sworn).
 —I lived many years in the country. I travelled to Musco [Moscow].
 No. 1366. We could not sell all our English manufactures. I found the trade was overdone, that now I trade to other countries. Russia hides, I have not got interest and principal. Potashes, linen yarn, hemp and deal for his Majesty, hog's bristles. Our hemp is bad and will not sell here. A ship will not go to Archangel under double freight. As to the Baltic Seas, I have trade by way of Narva, and I find the charge the same by Narva as [by] Archangel. *Asked* whether the Dutch cannot sell, [*answers*] They have great quantities from thence; they have masts from thence—sometimes 100 or 150 in a year. *Mr. Edwards* (sworn) says he has been concerned in the trade 23 years. I had 45 bales left there last year. We bring more than we can vend. The Archangel fleet was taken by the French. I could never find any hemp. The greater is worse than that of Narva: two-thirds freight more from Archangel than to Sweden. *Asked* what they get by, *answers*, Some years we get by one commodity and some times by another. I have sold ashes for 50s. a hundred and lost 2s. 6d. a hundred by them. *Captain Henry Collins* (sworn) says: In 1688 I was there. I saw great parcels of merchants' goods lying in the warehouses there. I carried goods on my account. I never carry above 400*l.* worth, and I have left 100*l.* worth there. *Mr. Garraway* (sworn).—My father dealt in naval stores, but what did he do with them, they not being good? He sent them to other countries. *Mr. Northey* was then heard for the merchants of London who endeavour to improve the trade with Russia. *Mr. Dodd* (for the same side).—This bill is not contrary, but pursuant to their charter and Act of Parliament. *Mr. Gold* (sworn).—The trade of hemp is much improved and we have improved it. I have sold the Navy almost 100,000 lbs. of this hemp. The hemp from Archangel may be improved. There is a great number of hides in Russia. *Mr. Joseph Martin* (sworn).—I have dealt in masts. The trade is much decayed. The Burghers are discouraged by the King of Sweden. I could import larger and better from Russia than Riga. We buy tar at Stockholm. The Dutch load ships with this. I am concerned in the tobacco contract. *Mr. Grove* (sworn)—For the Company.—I have been in the Company forty years and this has been the fine—50*l.* *Mr. Tench* heard for the Company of Merchants. *Proposed* to hear the Navy Board. The Bill was read 2^a and committed to a Select Committee, five to be a quorum, and the Commissioners of the Navy Board and some of the Russia Co. and merchants ordered to attend. MS. Min.

In Select Committee on 27 Feb. the *Commissioners of the Navy* were asked what naval stores proper for the King's Navy may be had from Russia as good as from Sweden. *Sir R. Haddock*: We have bought all the war naval stores from Russia; deals from thence better than elsewhere: we think it necessary the trade for them thither should be open. The Dane formerly stopped our stores from Denmark. Hemp from Russia is not so good. We have bought oil and tallow from Russia. *Mr. Freeman*: The Company say they allow of what the Commissioners have said. *By the Company*: We have a property by the Act 8 Eliz. He [*Mr. Freeman*] sums up what the witnesses for the Company against the Bill had said at the Bar. He says the Dutch send more ships than we to Russia because they bring home wood ashes and corn (neither of which we want) mats and other trumpery. The prosecutors of the Bill may send what tobacco they please under a licence from the Company and may bring home anything as well under the licence as if incorporated. We are

content they bring all naval stores from Archangel, paying nothing. We leave it to your Lordships what fine they shall pay as an acknowledgment. To make their returns in naval stores they may carry cloth or what they please to purchase them with as if they were incorporated. If they are incorporated we fear they will outvote the old company and make us contribute to any loss they may have by their tobacco contract. The Czar is absolute, and will, if they are incorporated, seize our goods as well as theirs: If they are not so, he is so just, he will not touch the Company's effects. By the Bill the merchants will have effects sufficient in Russia to answer any pretence of the Czar without his seizing the Company's effects.

1698-9.

—
No. 1366.

On 28 Feb. the Bill was considered *The Company*, being asked if they have any objection to the 1st enacting Clause, say the time mentioned in the Bill is too short: They propose any merchant may bring in naval stores with any commodity he shall carry out of England without paying any imposition to the Company; that he may bring any other commodity from Russia with the product of tobacco. *The prosecutors of the Bill* say the tobacco trade is the least concern of the Bill: If we bring nothing but naval stores for our cloth we shall find but slender encouragement, for we cannot freight ships with them without potashes, &c.; Pitch and tar cannot be well loaded with hemp. The Clause was agreed to by 31 to 3. On 2 March Clause 2 was agreed to. Proposals delivered in by the Russia Company for amendments to the Bill (Annex (a) below) are read, and the prosecutors of the Bill heard to them. Both sides agree that all persons in London who are retailers or packers shall be excluded coming into the Company, and that no pewterer or soap-boiler shall be capable of coming into the Russia Company. *Proposed by the Company* that they may have two years' time to bring home their effects, and then the Company to cease to be a Company and the tobacco contractors to trade in the meantime with their tobacco and to bring home naval stores or what else they please by the produce of their tobacco, paying no more duty than the Company does, and for naval stores to pay nothing; and that any manufacture may be carried out for the purchase of naval stores by any other persons. The House being set and the Committee being called in, the soap-boilers are told they shall be heard at the next meeting. On 4 March *the soap-boilers* pray they may not be excepted coming into the Company more than any other subject. *Company*—You have taken 100*l.* for admission into your Company. [*Soap-boilers.*] We have had 100*l.* with an apprentice. Capt. Bolter gave us 100*l.* out of his bounty. Ours is a manual trade, into which none, by the law, ought to come in without serving apprenticeship. Soap would be 1*d.* [per] pound cheaper if the Russia trade were laid open. They withdraw. After debate, they are called in again and asked whether the Committee understood them right the last day that they agreed that packers and retailers be excluded the Company. *Merchants (Tench).* We neither resent nor dissent but we submit all to your Lordships as becomes us. (*Hastwell*) But we do not agree. *Tobacco contractors.* Several of us are retailers and if all retailers be excluded, then we cannot make affirmation that we are all free of the Company. After debate, it was resolved, by 25 to 4, not to exclude packers and retailers in London from the Russia Company, and it was agreed that pewterers and soap-boilers should not be incapable of coming into the Company.

A proposal from the Russia Company that such a Clause may be added to the Bill as the Eastland merchants have in their Charter, relating to the choice of officers was read, but not agreed to. A Clause was added

- 1698-9. to the Bill. The proposal made by the Company at the last meeting
 — was considered and directed to be laid before the House without any
 No. 1366. opinion of the Committee thereon. Com. Book.

On 8 March the Bill was reported to the House and also the proposition offered by the Company to the Committee (Annex (*d*) below) which was read and rejected. A Petition (Annex (*c*) below) was offered by the Russia Company. Then the amendments were agreed to. MS. Min. L. J., XVI. 397. Royal Assent 24 March. *Ib.* 416. 10 Will. III. c. 6. Fol. Ed.]

Annexed :—

(*a*) 2 March. Proposals for Amendments to the Bill, as follows :—

“ In case your Lordships shall not think the Reasons offered yesterday by the Russia Merchants against the Bill now depending in the House of Peers and the Proposals they made to the Tobacco Contractors and others not satisfactory, then they humbly pray the following amendments to the said Bill. That if this Bill should pass *in terminis*, enabling all the natural-born subjects of this Kingdom to take their freedom for 5*l.*, then every clothier, clothworker, packer, pewterer, soap-maker and many others will come into the Company, whereas a Russia Merchant cannot be admitted into the Company of Soap-makers and Pewterers upon any terms ; and the admission of those tradesmen into the Company will destroy the constitution of our Charter and Act of Parliament, by which the Company is established under the title of Merchants, and to such only we humbly pray it may be continued, and their fine of admission may be augmented to a reasonable sum, for that they conceive such as are not capable of paying it are very unlikely persons to enlarge the trade. That whereas the last clause in the Bill (which was added to it after the Company being heard at the Bar of the Honourable House of Commons, and they thereby excluded from offering their reasons against it), which does oblige the Company to admit all persons into their freedom in any part of this realm without personally appearing at their Court in London, will be a thing very chargeable to the Company and contrary to their practice and constitution, and therefore they humbly pray that all persons may appear at their Court as usual for their admission. The Company humbly pray that your Lordships will be pleased to order the Tobacco Contractors that they bring before your Lordships their original contract that they have made with the Czar of Muscovy for the importation of tobacco into his dominions, and all other their contracts relating thereto, and that the Company may have a copy of them for their information how and wherein the said contract may affect the Company, that they may be the better enabled to offer to your Lordships such methods as the Company may be preserved from any danger by virtue of the said contract. *Endorsed* as delivered in by the Russia Company and read this day. *Noted* E. Peterborough's Paper.

(*b*) 4 March. Sir Benjamin Ayloffe's Proposal on behalf of the Russia Company relating to the choice of their officers. The Company pray that they may have the same clause added to the Bill as the Eastland Merchants, their chief opponents, have in their Charter, empowering them to choose their Governor, Officers and Assistants by their Court of Assistants only, notwithstanding anything in the Russia Company's Charter to the contrary.

Signed Ben. Ayloff, Governor. *Dated* 2 March 1698-9. 1698-9.
Endorsed as laid aside this day.

(c) 8 March. Petition of the Company of English Merchants for discovery of new trades, commonly called the Russia Company. Pray for leave to offer Reasons at the Bar in support of their Propositions made to the Committee. *Signed* Benj. Ayloff, Governor, John Edwards, Thomas Garway, Rando. Knipe, Thom. Hawes, Hen. Phill, Tho. Scott, Wm. Vickers, Thomas Betton, Wm. Jollife, John Freeman, Stephen Scott, Geo. Grove, John Pindeeke, Charles Thorold, Joseph Woolfe, Tho. Niccolls, John Poulton, Edw. Grace. *Endorsed* as read this day. No. 1366.

(d) 8 March. Proposal of the Russia Company, viz., That they may have two years' time allowed them to bring home their effects, and then the Company to cease to be a company; and that the Tobacco Contractors may trade in the meantime with their tobacco, and may bring home naval stores or what else they please with the produce thereof, paying no more duty than the Company doth, and for naval stores to pay nothing; and that any other manufacture may be carried out for the purchase of naval stores by any other persons. *Endorsed* as rejected this day.

1367. Feb. 11. Writ of Summons (V. Weymouth).—Writ of Summons to Thomas, Viscount Weymouth. *Dated* 13 July 1698. [Took the oaths this day. L. J., XVI. 380.]

1368. Feb. 11. Tone River Navigation Act.—Petition of the tenants of the manor of Taunton and Taunton Deane, in the County of Somerset. The making the river Tone navigable from Bridgwater to Taunton will be a considerable benefit to Petitioners by encouraging trade, lessening the number of the poor, preserving the highways and raising the value of Petitioners' lands. Pray their Lordships to give all encouragement to the Undertakers. *Signed* by John Pope and 80 others. *Endorsed* as read this day. L. J., XVI. 380. [The Bill was brought from the Commons on 3 Feb. *Ib.* 373. In Select Committee on 15 Feb. the Deed of Assignment of the Earl and Countess of Sandwich, Viscount and Viscountess Lisburn, Francis Greville and Lady Greville to Mr. Friend for 330*l.* of the said river is read, and the articles between Mr. Friend and Thomas Baker are read. On 17 Feb. a gentleman from the Mayor and Burgesses of Taunton prays the Mayor and Justices (which are but four) may be joined with the Bishop and Justices of Peace in taking the account, and that all the Justices may be summoned to the taking thereof, whereas now it may be done by any five of them without a general summons. Com. Book. Royal Assent 24 March. L. J., XVI. 416. 11 Will. III. c. 12 in Long Cal.]

1369. Feb. 11. Ward and others *v.* E. Meath (Ireland).—Petition and Appeal of Edward Ward, Esq., an Infant, grandson and heir apparent to the Right Honourable Edward, Lord Dudley and Ward, by Frances Ward, Widow, his mother and guardian, and of John Levett, Esq., and Mary, his wife. Sir Thomas Brereton, late of Handford, co. Chester, Bart., was seized in fee simple of certain lands in the County Palatine of Tipperary, which on his death in January 1673 came to Frances, his surviving sister of the whole blood, late wife of Edward, L. Dudley and Ward, and grandmother of the Petitioner Edward, and to the Petitioner Mary, daughter and heir of Susanna, late wife of Edmond Lenthall, Esq., deceased, the other sister of the whole blood, as heirs at law to Sir

- 1698-9. Thomas. Shortly after Sir Thomas' death, Edward, now Earl of Meath, under the pretence of a conveyance from Sir Thomas to Cecilia, his wife, Sir Thomas' sister of the half blood, entered upon the estate and enjoyed it for some time. The pretended conveyance being found to be vicious and invalid, an action of ejectment was brought against him in 1677 by the Petitioner Edward's grandfather and William, his father, and the Petitioners John Levett and Mary, whereupon E. Meath and his wife brought a Bill, by the names of Edward Brabazon, Esq., and Cecilia his wife, before the Chancellor of the said County Palatine to be relieved against the heirs-at-law under pretext of a conveyance from Sir Thomas by lease and release, of 12 and 13 July, 18 Car. II., to Cecilia and her heirs for ever, and on 13 April 1685 obtained an order *ex parte*. Upon showing cause against this order, on 17 April 1686, the Bill was dismissed and the conveyance set aside, and the Defendants in Sept. 1686 obtained possession, which they enjoyed till the late rebellion in Ireland, when for some time they were divested, but afterwards restored by his Majesty, and John Levett and Mary in August 1687 by deed and fine settled their moiety or proportion of the premises to certain uses. The Earl of Meath and his Countess in August 1695 appealed against this dismissal to the King and the Lords in Ireland. On 29 August 1695 the Irish Lords ordered the Petitioner Edward, by his guardian Frances Ward, Edward, L. Ward, and John Levett and Mary his wife to answer. Edward, L. Ward pleaded in bar his privilege of a Peer and one of the Lords of the Parliament then sitting in England, as by a copy of the Plea annexed appears (Annex (a) below), which being with much difficulty delivered into the House of Lords in Ireland was there disallowed, and an Order made that he and the Petitioner Edward Ward should, by their solicitor Mr. Rotton, put in their answers in three days, whereupon, on 29 Oct. 1695 the Earl and Countess of Meath by surprise brought on their Appeal to be heard. John Levett and Mary, demurring to the jurisdiction of the Irish House of Lords, did not appear. The said House, on a hearing, reversed the Decree of dismissal, and confirmed the Decree *nisi causa*, and ordered the Appellants to be put into possession, with a perpetual injunction to stay all proceedings at law. Pray that the Order and Judgment of the said House, which is arbitrary, illegal and unconstitutional, may be set aside and made null *ab initio*, and Petitioners put in possession of the estate. Signed Fr. Ward, John Levett, Mary Levett. Countersigned Nath. Wrighte, Sa. Carter. L. J., XVI. 381. [On 11 Feb. the Petition was referred to a Committee for consideration. *Ib.* 381. The Committee reported on 14 Feb. that in their opinion the Lord Chancellor should write to the Lords Justices in Ireland to know what had been done upon the Order and Judgment of 24 May which was sent to them. *Ib.* 383. On 25 April the Plea of the Respondent was over-ruled. *Ib.* 452. On 28 April the Petition of the Respondent for further time was rejected. *Ib.* 455. On 29 April Mr. Serjt. Wright and Mr. Norihey were heard for Appellants. No Counsel appeared for E. Meath. The House Ordered and Declared that the proceedings in this case in the House of Lords in Ireland were *coram non judice* and that the Chancellor of Tipperary in Ireland do put the parties that were put into possession by the House of Lords in Ireland out of possession, and the Petitioner into possession again, and that if they think themselves aggrieved they may appeal to the House of Lords here. A Committee was appointed to draw this Order and Judgment. On 1 May E. Bridgewater reported from the Committee that a witness was not sworn to prove the Order in Ireland. John Manning sworn. [Asked] whether the mesne profits will follow the

lands if not mentioned in the Order. [*Answers*]—The mesne profits are an incident to the estate. On 2 May the Order and Judgment was reported and adopted. MS. Min. L. J., XVI. 457–8].

1698–9.

No. 1369.

Annexed :—

(a). 11 Feb. 1698–9. Copy Plea of Edward, Lord Ward, Baron of Birmingham in the Kingdom of England. Insists on his privilege as a Peer of England, and demands the judgment of the House whether he shall be compelled to answer. *Signed* Tho. Trevor, Fra. Pemberton. [Referred to in preceding, and appended thereto.]

(b) 11 Feb. 1698–9. Copy Order and Judgment of the Irish House of Lords of 29 Oct. 1695. *Signed* Gerard Bor, Cler. Parliamentor. L. J. (Irish), 548. [Referred to in first paper and appended thereto.]

(c) 20 April 1699. Plea of Edward, Earl of Meath, and Cecilia, his wife, to the Petition and Appeal of Appellants from the Decree of the Lords in Parliament in Ireland. In the reign of Henry II. Parliaments were held in Ireland by the King's writs in the same manner and form as in England. The Parliament in Ireland is the supreme Court of Judicature in that realm, and all the other Courts there are liable to its judgments, which have been, and ought to be conclusive. The said Earl and his wife insist therefore upon their Decree as final, and also insist that the Earl, as a Peer of Ireland and one of the Lords of the Irish Parliament, is entitled to his privileges, according to ancient usage and custom and the Act of 3 Edward IV. The Parliament of Ireland met on 27 September last and was prorogued on 26 January last till the 30th of May 1699, and still continues in force and not dissolved. They demand the judgment of the House if they shall be compelled to answer the Appeal. *Signed* Tho. Brotherton. *Endorsed* as brought in this day. L. J., XVI. 450.

(d) 26 April 1699. Petition of Paul Jodrell, Agent in England for the Defendants, the Earl and Countess of Meath. Petitioner was yesterday served with their Lordships' Order for hearing the Cause this day, which recites that it was appointed for hearing on Saturday last. Petitioner never had any notice thereof, and is greatly surprised not only for the suddenness thereof, but also in regard to the [fact that the] Defendants, by advice of their Counsel, have put in a Plea, of which no notice is taken in their Lordships' Order, but which ought to be debated before any further proceeding, and if the Defendants shall be ordered to answer, they would be able to show that many matters of fact contained in a printed Case of the Appellants, yesterday published, are very much represented to their Lordships. Prays for a day for arguing the Plea. *Endorsed* as read this day. MS. Min.

(e) 28 April. Petition of same. Their Lordships having overruled Defendants' Plea without a hearing, and ordered them to answer, Petitioner craves leave to inform their Lordships that he has not any of the bills, answers, depositions or any copy of the verdict had in Ireland, on a solemn trial, in justification of Defendants' title, nor any proceedings in Ireland whereby to enable him to answer or defend the Cause on the day fixed for hearing. Prays for further time to make his defence. *Endorsed* as read this day and rejected. L. J., XVI. 455.

1698-9. 1370. Feb. 11. Defective Titles (Concealments &c.) Bill.—
 — Commons' Engrossment of an Act for the general Quiet of the Subject
 No. 1370. against all Pretences of Concealments, Eneroachments or other defective
 Titles.

§ i. Whereas great charge and trouble hath been occasioned to divers good subjects of this Realm by suits in his Majesty's name for certain lands, which they have purchased for valuable consideration, and have for a long time quietly possessed, under pretence of their having been eneroachments, derelict lands, land gained from the sea or navigable rivers, or otherwise concealed from the Crown, Be it enacted &c., That the King's Majesty, his heirs and successors, shall not at any time hereafter sue, impeach, question or implead any person or persons, bodies politic or corporate, for or in any wise concerning any manors, lands, tenements, rents, tithes or hereditaments, other than liberties and franchises, or for or in any wise concerning the revenues, issues or profits thereof, or make any title, claim, challenge or demand of, in or to the same or any of them by reason of any right or title accrued and grown fifty years past or more before the first day of January one thousand, six hundred, ninety eight, and now *in esse*, unless his Majesty, or some of his progenitors, predecessors or ancestors, or some other person or persons, bodies politic or corporate, by, from or under whom his Majesty anything hath or lawfully claimeth, have been answered by force and virtue of any such right or title to the same the rents, revenues, issues or profits thereof within fifty years next before the first day of January, one thousand, six hundred, ninety eight, or that the same have been duly in charge to his Majesty or some of his Majesty's predecessors, or that the same have been duly in charge or have stood in super of Record within the said time, and that every person and persons, bodies politic and corporate, their heirs and successors, and all claiming by, from or under them or any of them, for and according to their and every of their several estates and interests which they have or claim to have in the same respectively, shall hereafter quietly and freely have, hold and enjoy against his Majesty, his heirs and successors claiming by any title accrued or grown fifty years, to be accounted as aforesaid, or above, and now *in esse*, all and singular manors, lands, tenements, rents, tithes, and hereditaments whatsoever, except liberties and franchises, which he or they, or his or their or any of their ancestors or predecessors, or those from, by, or under whom they claim, have held or enjoyed or taken the rents, revenues, issues or profits thereof by the space of the said fifty years, unless his Majesty, or some of his progenitors or ancestors, or some other person or persons, bodies politic or corporate, by, from or under whom his Majesty anything hath or lawfully claimeth in the said manors, lands, tenements, rents, tithes or hereditaments, by force of any right or title, have been answered by virtue of any such right or title the rents, revenues, issues, or other profits thereof within the time aforesaid, or that the same have been duly in charge, or stood in super of Record as aforesaid within the said space of the said fifty years; And furthermore that every person and persons, bodies politic and corporate, their heirs and successors and all claiming by, from or under them or any of them, for and according to their and every of their several estates and interests which they have or claim respectively, shall quietly and freely have, hold and enjoy all such manors, lands, tenements, rents, tithes and hereditaments, except liberties and franchises, as they now have, claim or enjoy, whereof his Majesty, his progenitors, predecessors or ancestors, or he or they

by, from or under whom his Majesty anything hath or lawfully claimeth, or some of them by force of some right or title to the same, have not been answered by virtue of such right or title the rents, revenues, issues or profits thereof within the said fifty years, nor the same have been duly in charge or stood in super of Record as aforesaid within the said fifty years against all and every person and persons, their heirs and assigns, having, claiming or pretending to have any estate, right, title, interest, claim or demand whatsoever of, in or to the same, by force or colour of any Letters Patent or Grants, upon suggestion of concealment, encroachment, being derelict lands, or wrongful detaining, or not being in charge, or defective titles, of or for which said manors, lands, tenements, rents, tithes and hereditaments, or any of them, no verdict, judgment, decree, judicial order upon hearing, or sentence now standing in force, hath been had or given in any action, bill, plaint or information in any of his Majesty's Courts at Westminster for or in the name of the King's Majesty or some of his predecessors, or for any of the said Patentees or Grantees, or for their or any of their heirs or assigns within the said fifty years.

§ ii. Provided always that this Act, nor anything therein contained, shall not extend to bar, impeach or hinder his Majesty, his heirs or successors, of, for, or from any manors, lands, tenements, rents, tithes, or hereditaments, whereof any reversion or remainder now is in his Majesty, for or concerning the said reversion or remainder, nor of, for, or from any reversion or remainder, or possibility of reversion or remainder in any of his Majesty's progenitors, or predecessors, or ancestors, which by the expiration, end, or other determination of any limited estate of fee simple, or of any fee tail or other particular estate, hath or ought to have fallen or become in possession within the said space of fifty years, nor of, for or from any right or title first accrued or grown to his Majesty or any of his progenitors, predecessors or ancestors, or in or to any manors, lands, tenements, rents, tithes, or hereditaments within the said space of fifty years.

§ iii. Provided also, and be it enacted by authority of this present Parliament, that this Act or anything therein contained shall not extend to any manors, lands, tenements, rents, tithes or hereditaments mentioned to be granted or conveyed by any of his Majesty's progenitors, predecessors or ancestors, or by any other under whom his Majesty claimeth, to any person or persons of any limited estate in fee simple, or of any estates in tail or other particular estate, which several estates, if the same had been good and effectual in law, have or ought to have fallen or become in possession within the said space of fifty years, nor to any manors, lands, tenements, rents, tithes, or hereditaments mentioned to be granted or conveyed by any of his Majesty's progenitors, predecessors, or ancestors, or by any other under whom his Majesty claimeth, to any person or persons in fee tail or other particular estate, whereof the reversion or inheritance, if such estate tail or other particular estate had been good and effectual in law, should have been continued in his Majesty the first day of January, one thousand, six hundred, ninety-eight.

§ iv. Saving to every person and persons, bodies politic and corporate, their heirs and successors, other than his Most Excellent Majesty, his heirs and successors, and other than all Patentees or Grantees of concealment or defective titles, or Grantees or Patentees of encroachments or derelict lands, or of lands gained from the sea or navigable rivers, and all and every person and persons claiming by, from or under them or any of them for, in respect, or by reason of any such Patents or Grants, all such rights, title, interest, estate, rents,

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—
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- 1698-9. commons, customs, duties, profits and other claims and demands whatsoever, into or out of the said manors, lands, tenements, tithes or hereditaments as they or any of them had or ought to have had before the making of this Act, anything in this Act to the contrary notwithstanding.
- No. 1370.

§ v. And be it enacted by the authority aforesaid, that from and after the said first day of January, one thousand, six hundred, ninety-eight, every person and persons, bodies politic and corporate, being purchasers before that time for a valuable consideration of any manors, lands, tenements or hereditaments, or any estate, title or interest in the same, of or from any Papist or Popish Recusant convict, such Papist or Popish Recusant, or his or their ancestors, mortgagee or lessee being in possession at the time of such sale or purchase made, shall hereafter quietly and freely have, hold and enjoy the same against all and every such Papist or Popish Recusant, and against all and every person and persons claiming by, from, or under such Papist or Popish Recusant or any of his ancestors, unless such person or persons so claiming did *bonâ fide* purchase such manors, lands, tenements, hereditaments, estate, title or interest for money actually paid, or unless such person or persons so claiming do within the space of three years from and after the said first day of January, one thousand, six hundred, ninety-eight, commence or begin their suit or action of and upon such their right in some Court of Law or Equity, or do otherwise on or before the expiration of the said three years enter, enrol, or register the deed or deeds evidencing such their right or claim in the High Court of Chancery, or in one of his Majesty's Courts of Record at Westminster.

§ vi. Provided always nevertheless that if any person or persons having any title or right to or in such manors, lands or hereditaments, so purchased as aforesaid, be or shall be, at time of the said right or title first accrued, within the age of one and twenty years, *feme covert*, *non compos mentis*, or beyond the seas, that then such person and persons, and his and their heir and heirs, shall or may, notwithstanding the said term of three years be expired, commence or begin his or their suit as he might have done before this Act, so as such person or persons, or his or their heir and heirs, shall within three years next after his and their full age, discovery, coming of sound mind, or coming into this realm, commence or begin his or their suit, or otherwise within three years enter, enrol, or register the deed or deeds evidencing such their right or claim in manner aforesaid. *Parchment Collection*. [Brought from the Commons this day. L. J., XVI. 380. Read 2^a and committed, and the Attorney-General and Lord Mayor to be heard. *Ib.* 446. On 28 April the Committee was ordered to meet on 3 May. *Ib.* 456. No further proceedings. (See No. (1399).)]

1371. Feb. 13. Barailleau's Naturalization Act. Certificates that the following persons have received the Sacrament, according to the usage of the Church of England, viz. :—

- (1.) Peter Barailleau, of the Parish of St. Peter Lee Poor [Le Poer], London, Merchant, on 25 Dec. 1698, in the Church of the said Parish. *Signed* Richard Leach, D.D., Minister, Robert Horlock, Wm. Twyford, Churchwardens. *Dated* 26 Dec. 1698. *Attested* by George Whately, of the Parish of Cripplegate, Curate, and William Aries, of London, Farrier.
- (2.) John Dubourdieu, Minister of the Royal Chapel of the French Savoy, on 15 Jan. 1698-9, at the Parish Church of the Savoy. *Signed* Salomon Del Becque, Minister, John Sabatier,

Churchwarden. *Dated* 18 Jan. 1698-9. No attesting signatures. 1698-9.

(3.) Henry Desmarais [Dumarais in Act], on 15 Jan. 1698-9, at the Royal Chapel of the French Savoy. *Signed* Salomon Del Becque, Minister, John Sabatier, De Membray, Churchwardens. *Dated* 20 Jan. 1698-9. No attesting signatures. No. 1371.

(4.) James Martin, Gent., on 8 Jan. 1698-9, at the Parish Church of St. Peter's, Cornhill. *Signed* Will. Beveridge, D.D., Minister, Tho. Manning, Churchwarden. *Dated* 8 Jan. *Attested* by Edward Pollexphen, of St. Martin Vintry, London, and John Gentrey, of St. Peter's, Cornhill.

(5.) John Person, on 29 Jan. 1698-9, at the Parish Church of St. Andrew's, Holborn. *Signed* T. Manningham, D.D., Minister, Fran. Higgins, Churchwarden. *Dated* 29 Jan. *Attested* by Daniel Crespin and Francis Brown.

[Read this day in Committee. The *Clerk of the Parliaments* and the *Gentleman Usher* acquainted the Committee that several of the persons named in the Bill had not paid their fees, and shewed a Precedent of 29 July 1662, where, in the Bill for naturalizing Anna Ferrers, six persons, named therein, were to be left out, because they had not paid the officers of the House their fees. The Lord in the Chair, E. Stamford, was directed not to report the Bill till they had satisfied the officers of the House their fees. Com. Book. The Bill was brought from the Commons on 23 Jan. L. J., XVI. 364. It was reported with amendments (namely the addition of John Person and amendments consequential thereon) on 28 Feb. Com. Book. Royal Assent 24 March. L. J., XVI. 392, 416. 11 Will. III. c. 30 in Long Cal.]

1372. Feb. 16. Fleet and Fortifications.—Papers relating to the state of the Fleet and Fortifications referred to a Select Committee appointed this day. [The proceedings leading to the appointment of this Select Committee are as follows. On 7 Feb. the House being in Committee on further consideration of the King's Speech of the 1st inst. (*See* No. 1357), it was *proposed* to consider the Fleet and security of Forts &c. *Agreed* to move the House that a state of the Fleet and Fortifications be laid before the House, relating to the Medway, Thames, Portsmouth, Plymouth and Falmouth. House resumed. *Ordered* that the Master of the Ordnance and the Commissioners of the Admiralty lay before them a state of the Fleet and Fortifications, and, in the first place, those on the Medway and Thames and in Portsmouth Harbour. MS. Min. L.J., XVI. 376. On 13 Feb. E. Romney, Master of the Ordnance, delivered an estimate of work and repairs necessary to be done at the several Forts and Batteries upon the River Medway,* which was ordered to be considered on the 16th. MS. Min. L.J., XVI. 381, 382.

16 Feb. The estimate delivered in on the 13th was read, as also a "List of the Ships the Royal Navy is composed of, and in what condition they are as to repair."† Select Committee appointed to consider the said Papers. MS. Min. L. J., XVI. 385.

20 Feb. Select Committee. E. Rochester in the Chair. A letter from Sir Henry Goodrick, Mr. Charlton, Mr. Musgrave, and Mr. Lowther, dated [11th] Feb. 1698, to E. Romney, with the estimate of repairs, &c., is read.‡ *Ordered* that Sir Martin Beckman, Mr. Edwards and Mr. Bolter, the Assistant Surveyor-General, attend on the 23rd

* Annex (a²) below. † Annex (b) below. ‡ Annex (a) and (a¹) below.

- 1698-9. with the plans of the fortifications on the Rivers Medway and Thames and the Harbour of Portsmouth as they now are and as they propose to fortify them, and what part thereof can be performed within the year 1699. The list of the ships is read. *Ordered* that the Commissioners of the Admiralty do with all convenient haste lay before the Committee an estimate of what the charge may be of putting that part of the Fleet in repair which is now out of repair, and what part thereof can be performed this year. Com. Book.

23 Feb. Select Committee. E. Rochester in the Chair. *Sir Martin Beckman* attending, the estimate of repairs relating to Portsmouth in 1693 is read. *Sir Martin Beckman* delivers in an estimate of what work may be done in the year 1699 towards the security of the Navy, Rivers, and Ports. The total charge is 87,700*l*.* He shows plans of the fortifications to be made at Portsmouth. The said estimate is read. *Ordered* to report, &c. as in L. J., XVI. 461-2.† Com. Book.

7 March. Select Committee. *Mr. Burchett*, Secretary of the Admiralty, delivers in the estimate of the charge of the ships which may be repaired before Lady Day 1700 (*see Annex (d)* below), as also an estimate of the charge of putting that part of the Fleet in repair which is now in harbour, as also of the charge of completing their stores, &c., with an abstract of the whole. *Ordered*, that the state of the Fleet, with the papers relating thereto, delivered in this day from the Admiralty, be considered on Thursday next. Com. Book.

9 March. Select Committee. The estimates of the charge of putting the Fleet into repair, and the list of the ships that may be repaired before Lady Day, 1700, delivered in on the 7th, are read. The Clerk is directed against the next meeting to abstract out of the said papers the charge of repairing of each of the said 51 ships that may be repaired before Lady Day 1700. Com. Book.

10 March. Select Committee. The estimate of the charge of repairing the Fleet is perused. *Ordered* to be reported with the estimate formerly ordered relating to the Forts. Com. Book.]

Annexed:—

(a) 13 Feb. 1698-9. Letter from the Officers of the Ordnance to E. Romney, Master-General of the Ordnance. In obedience to his Lordship's commands, and in pursuance of an Order of the House of the 7th inst., requiring a state of the fortifications relating to the security of the Fleet, and in the first place, those in the Medway, Thames and Harbour of Portsmouth, they submit the estimate for the necessary repairs upon the Medway, taken by the Assistant Surveyor in December last, that for Tilbury, taken by Engineer Edwards in July 1694, and that for Portsmouth, taken in 1693 by Sir Martin Beckman, Chief Engineer, with his Report. Regarding the time since those estimates were taken, in all probability the charge of the repairs will be much increased, and an exact account can only be given by sending an engineer to the several fortifications, which would take up nearly two months' time. *Signed* G. Musgrave, Ja. Lowther, Jon. Charlton, H. Goodricke. *Dated* Office of Ordnance, 11 Feb. 1698-9.

(a¹) 13 Feb. Cover of preceding. *Endorsed* as delivered this day by E. Romney.

* Annex (c) below.

† The portion of the Report which follows here is that relating to the 87,700*l*. for the repair of Forts.

(a²) 13 Feb. 1698-9. Book containing the following:—

1698-9.

- (1.) An estimate of works and repairs necessary to be done at the several forts and batteries upon the River Medway. The totals (omitting details) are thus distributed:—

No. 1372.

	£	s.	d.
At Howness Battery - - -	1,261	5	6
At Gillingham Fort - - -	1,914	14	0
Cockham Wood Battery - - -	1,508	17	4
Birdnest Battery - - -	351	7	6
Middleton's Battery - - -	201	2	10
At Upnor Castle - - -	355	16	4
At Sheerness - - -	6,162	8	0

Total for the Forts, &c., on the River } Medway - - -	11,755	11	6
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Signed G. Musgrave, Cler. Ordnance. Dated 9th Dec. 1698.

- (2.) Necessary repairs to be done at Portsmouth, the Dock, Blockhouse Point and Port's Bridge, &c., for the year 1693, viz.:—

	£	s.	d.
Portsmouth Town - - -	43,897	0	9½
Repair of Blockhouse Point - - -	22,412	1	10½
For a Breastwork with a Redoubt round the Point at Portsmouth - - -	2,193	1	8
For repairing of the Fort at Port's Bridge -	34,303	14	9
For repairing the works about the Dock at Portsmouth - - -	3,933	17	0
Repairs and works necessary to be done at Gosport for the present defence -	5,875	0	0

Total for Portsmouth, &c. -	112,614	16	1
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- (3.) An estimate of those repairs that are most for the present defence of Tilbury Fort, towards the riverside only. The total (omitting details) amounts to

£	s.	d.
6,114	11	0

The grand total of the above being -	130,484	18	7
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Signed G. Musgrave, Cler. Ordnance. Dated 28 July 1694.

- (4.) Sir Martin Beckman's report concerning the present condition of Portsmouth, the Point, the Blockhouse Point, the Dock, Port's Bridge, and Gosport, viz.:—

I have, pursuant to my order from the Honourable the Ordnance Board, bearing date the 31st March, and the Memorials of the 28th March and 1st of April last, surveyed and taken notice of such repair as is most necessary to be done at the respective places here above-mentioned.

Portsmouth is in that ill condition, that, if not timely taken care of, it will demolish itself. The earthwork doth not founder in the moat from the superficies of the ramparts, as is reported, but it sinks within the ramparts, and boils up under the foundation in the moat, and the facing falls inwards in the ramparts, and in some places it swells out of the bottom, and even the stone wall or scarp itself, so that the Lieut.-Governor, Col. Gibson, has been obliged to cause the cannon in some places to be drawn back from the platforms or batteries, as especially at Grays and Town Mount Bastions. The reason of this is, that

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the foundations are not well secured and not deep enough by 10 foot, and the scarps of stone have no counterforts, which makes the weight of the ramparts press out of the stone wall. To speak in short, the whole place is extremely ill-proportioned, and the profile worse of all. The parapets have nor height nor thickness, as they ought to have, of which I often told the late King Charles and King James, but all what the late Chief-Engineer, Sir Bernard de Gomme, was pleased to do was approved of, as from an oracle, and I kept off from ever having anything to do with the fortifications, till I succeeded him, and then the fortifications were laid aside, and the army by land and the fleet were accounted the walls of England &c.

Port's Bridge ought to be repaired, and the rivulet from sea to sea to be so secured that no passage may be there but through the Fort, as sheweth my design hereto annexed.

Blockhouse Point, and the Point at Portsmouth ought also to be secured, as I have set done in the estimate.

Col. Gibson showed me a place 200 paces from the old work Blockhouse Point where the sea went over twice the last winter for 100 and more paces in length, which made the bank flat and lower by 3 foot than it was, which I fear, if the sea works a passage there, it will fill up the whole harbour where the men-of-war ride, and so utterly spoil that famous Port, if not secured. The bank or neck of land is about 60 foot over from sea to sea at highwater or spring tides.

The Dock at Portsmouth is in no manner of defence. The slight works that were in haste made there are all ruined, and [there] can be no less for the present done to it, than what I have set down for its repair in the estimate. I have also taken notice of the works at Gosport in the estimate, though it is not mentioned in my order; yet I thought it necessary to be done, for whoever is master of that place, is as much master of the harbour as Portsmouth is. I have only designed the graft to be at present but 30 foot wider than now it is, and secured with palisadoes, and also double barracks for 150 men, or 3 companies. *Dated* 23 June 1693. *Endorsed*: Delivered by E. Romney, Master of Ordnance, 13 Feb. 1698-9.

(b) 14 Feb. 1698. List of the Ships the Royal Navy is composed of, and in what condition they are, as to repair:—

(i.) At sea:—

3rd Rates—

Boyne.
Defiance.
Humber.
Ipswich.
Monmouth.
Resolution.
Swifsure.

4th Rates—

Anglesey.
Centurion.
Chatham.
Coventry.
Deptford.
Dover.
Dunkirk.
Exeter.

Falmouth.
Greenwich.
Gloucester.
Harwich.
Hampshire.
Kingston.
Medway.
Norwich.
Pendennis.
Rocheester.
Tiger.
Weymouth.
Winchester.
York.

5th Rates—

Adventure.
Betty.

Bedford galley.
Dolphin.
Experiment.
Hastings.
Lyme.
Lynn.
Looe.
Mary galley.
Poole.
Roebuck
Rye.
Saudadoes prize.
Sorlings.
Speedwell.
 6th Rates—
Dunwich.
Deal Castle.
Essex prize.
Flamborough.
Germoon prize.
Lizard.
Maidstone.
Penzance.
Queenborough.
Rupert prize.
Swan.
Seahorse.
Sun prize.
Seaford.
 Fireship—*Vulcan*
 Advice Boats—
Express.
Eagle.
Messenger.

(ii.) In Repair :—

1st Rates—
Britannia.
Queen.
Victory.
Royal William.
 2nd Rates—
Association.
Barfleur.
Namur.
Triumph.
 3rd Rates—
Bedford.
Breda.
Cornwall.
Cambridge.
Cumberland.
Content prize.
Devonshire.
Dorsetshire.
Lancaster.
Norfolk.
Newark.

Bomb vessels—
Salamander.
Star.
 Brigantines—
Fly.
Intelligence.
Spy.
 Hulks—
Asia, at Cadiz.
St. David, at Kinsale.
Loyalty, at Cadiz.
 Ketch—*Martin.*
 Pink—*Paramour.*
 Storeships—
Canterbury.
Katharine.
Suffolk, hagboat.
Greenfish.
 Yachts—
Charlotte.
Cleveland, attends the
Tower.
Enbbs.
Henrietta.
Isabella.
Isle of Wight.
Katharine.
Mary.
Queenborough.
Soesdyke.
William and Mary.

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—

No. 1372.

Orford.
Russell.
Ranelagh.
Chichester.
Shrewsbury.
Somerset.
Torbay.
Yarmonth.
 4th Rates—
Bristol.
Burlington.
Blackwall.
Canterbury.
Chester.
Crown.
Colchester.
Carlisle.
Dragon.
Dreadnought.
Dartmouth.
Falkland.
Guernsey.

1698-9.

No. 1372.

<i>Jersey.</i>	Advice Boat.
<i>Lincoln.</i>	Scout Boat.
<i>Lichfield.</i>	Hoys—
<i>Mary.</i>	<i>Delight.</i>
<i>Montague.</i>	<i>Forester.</i>
<i>Newcastle.</i>	<i>Lighter.</i>
<i>Nonsuch.</i>	<i>Marigold.</i>
<i>Oxford.</i>	<i>Nonsuch.</i>
<i>Portland.</i>	<i>Sophia.</i>
<i>Pembroke.</i>	<i>Supply.</i>
<i>Plymouth.</i>	<i>Transporter.</i>
<i>Ruby.</i>	<i>Unity, Horseboat, 1.</i>
<i>Romney.</i>	<i>Unity 2.</i>
<i>Sunderland.</i>	<i>Unity 3.</i>
<i>Severn.</i>	<i>Trnelove.</i>
<i>Salisbury.</i>	<i>Sheerness, Water Boat.</i>
<i>Woolwich.</i>	<i>Transport, Lighter.</i>
<i>Windsor.</i>	<i>Endeavour.</i>
<i>Warwick.</i>	<i>Owner's Goodwill.</i>
<i>Worcester.</i>	Hulks—
5th Rates—	<i>Chatham.</i>
<i>Bridgewater.</i>	<i>Exeter.</i>
<i>Feversham.</i>	<i>French Ruby.</i>
<i>Gosport.</i>	<i>Josiah.</i>
<i>Lastoff.</i>	<i>Leopard.</i>
<i>Ludlow.</i>	<i>Plymouth.</i>
<i>Milford.</i>	<i>Success.</i>
<i>Shoreham.</i>	Smack— <i>Flemish Longboat.</i>
<i>Scarborough.</i>	Tow-Boats, 2.
<i>Southsea Castle.</i>	Yachts—
<i>Winchelsea.</i>	<i>Jamie.</i>
6th Rate—Solebay.	<i>Squirrel.</i>
Fireships—	
<i>Griffin.</i>	
<i>Hawk.</i>	
<i>Strombolo.</i>	
(iii.) Under repair :—	
2nd Rate— <i>St. Michael.</i>	<i>Stirling Castle.</i>
3rd Rates—	<i>Suffolk.</i>
<i>Berwick.</i>	4th Rates—
<i>Burford.</i>	<i>Assistance.</i>
<i>Eagle.</i>	<i>Advice.</i>
<i>Essex.</i>	<i>Kingfisher.</i>
<i>Expedition.</i>	Fireships—
<i>Grafton.</i>	<i>Phœnia.</i>
<i>Kent.</i>	<i>Vulture.</i>
<i>Rupert.</i>	<i>Vesuvius.</i>
(iv.) Want great repair or re-building :—	
1st Rates—	<i>Ossory.</i>
<i>St. Andrew.</i>	<i>Sandwich.</i>
<i>London.</i>	<i>Vanguard.</i>
2nd Rates—	3rd Rates—
<i>Albemarle.</i>	<i>Captain.</i>
<i>Duke.</i>	<i>Edgar.</i>
<i>Duckess.</i>	<i>Elizabeth.</i>
<i>St. George.</i>	<i>Hampton Court.</i>
<i>Royal Katharine.</i>	<i>Lennox.</i>
<i>Neptune.</i>	<i>Northumberland.</i>

<i>Restoration.</i>	5th Rates—	1698-9.
<i>Warspite.</i>	<i>Charles' galley.</i>	—
4th Rates—	<i>Mermaid.</i>	No. 1372.
<i>Bonadventure.</i>	<i>Thunderbolt prize.</i>	
<i>Medway prize.</i>	<i>Hulk—Arms of Rotterdam.</i>	
<i>Monk.</i>	<i>Smack—Royal Escape.</i>	
<i>Reserve.</i>		
<i>Trident prize.</i>		
(v.) Want lesser repair :—		
3rd Rate— <i>Royal Oak.</i>	Bomb Vessels—	
4th Rate— <i>Southampton.</i>	<i>Basilisk.</i>	
5th Rates—	<i>Blast.</i>	
<i>Arundel.</i>	<i>Carcase.</i>	
<i>Fowey.</i>	<i>Comet.</i>	
<i>Lewis prize.</i>	<i>Firedrake.</i>	
<i>Sheerness.</i>	<i>Furnace.</i>	
<i>Terrible.</i>	<i>Granada.</i>	
6th Rates—	<i>Mortar.</i>	
<i>Bideford.</i>	<i>Portsmouth.</i>	
<i>Margate.</i>	<i>Serpent.</i>	
<i>Newport.</i>	<i>Terror.</i>	
Fireships—	Brigantines—	
<i>Firebrand.</i>	<i>Discovery.</i>	
<i>Hunter.</i>	<i>Dispatch.</i>	
<i>Lightning.</i>	<i>Diligence.</i>	
	<i>Post-boy.</i>	
	<i>Ketch—Providence.</i>	

Signed Orford, H. Priestman, R. Rich, G. Rooke. Jo. Houblon, J.
Kendall, G. Wharton. By order of their Lordships. J. Burchett.

Abstract of the foregoing List.

Rates.	Number of each Rate.	Condition.				
		At Sea.	In Repair.	Under Repair.	Want great Repair or Re- building.	Less Repair.
1st - - -	6	—	4	—	2	—
2nd - - -	14	—	4	1	9	—
3rd - - -	45	7	19	10	8	1
4th - - -	64	22	33	3	5	1
5th - - -	34	16	10	—	3	5
6th - - -	18	14	1	—	—	3
Fireships - - -	10	1	3	3	—	3
Advice Boats - - -	4	3	1	—	—	—
Bomb Vessels - - -	13	2	—	—	—	11
Brigantines - - -	7	3	—	—	—	4
Hulks - - -	11	3	7	—	1	—
Hoys - - -	16	—	16	—	—	—
Ketches - - -	2	1	—	—	—	1
Pinks - - -	1	1	—	—	—	—
Smacks - - -	2	—	1	—	1	—
Storeships - - -	4	4	—	—	—	—
Tow-Boats - - -	2	—	2	—	—	—
Yachts - - -	13	11	2	—	—	—
	266	88	103	17	29	29

Endorsed: Brought in by Mr. Burchett 14 Feb. 1698.

1698-9.

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No. 1372.

(c) 23 Feb. Estimate of what is necessary to be done towards the security of his Majesty's Navy, Rivers and Ports for the year 1699. *Signed* M. Beckman. *Dated* Tower, 23 Feb. 1698-9. *Endorsed* as delivered in this day by Sir Martin Beckman. L. J., XVI. 402. *In extenso*.

(d) 7 March 1698-9. List of what ships may be repaired by or before Lady Day 1700, if they shall be ordered to be gone in hand with, and suitable supplies of money for paying the workmen and buying the timber (which is very scarce) and other materials can be had to carry on the said works, weather permitting, and nothing extraordinary intervene to prevent the same, as by the accounts received from the officers of the several yards :—

Deptford :—

3rd Rates—

*Burford.**Kent.**Berwick.**Essex.**Grafton.*

4th Rates—

*Assistance.**Southampton.*5th Rate—*Arundel.*6th Rate—*Margate.*

Fireships—

*Vulture.**Vesuvius.**Strombolo.*

Bombs—

*Basilisk.**Carcase.**Granada.**Firedrake.**Furnace.**Mortar.**Serpent.**Terror.*

Woolwich :—

3rd Rate—*Suffolk.*

4th Rates—

*Advice.**Bonadventure.**Deptford.**Kingfisher.*

Bombs—

*Blast.**Comet.**Portsmouth.*Brigantine—*Dispatch.*

Chatham :—

1st Rate—*Britannia.*

3rd Rates—

*Stirling Castle.**Expedition.**Eagle.*

Sheerness :—

4th Rate—*Oxford.*5th Rate—*Fowey.*

Portsmouth :—

2nd Rate—

Royal Katharine.

3rd Rates—

*Royal Oak.**Edgar.**Restoration.*

4th Rates—

*Greenwich.**Trident.*

Brigantines—

*Diligence.**Post Boy.*

Plymouth :—

3rd Rate—*Rupert.*4th Rate—*Chatham.*

5th Rates—

*Thunderbolt prize.**Mermaid.**Terrible.*

Fireships—

*Firebrand.**Hunter.*Brigantine—*Discovery.*

Here follows an abstract of the above vessels.

Signed Orford, H. Priestman, R. Rich, J. Houblon, J. Kendall, G. Wharton. By order of their Lordships. J. Burchett. *Endorsed* as received this day.

(e) 7 March 1698-9. Estimate of the charge of putting that part of his Majesty's Fleet into repair, which is now out of repair and in harbour, as also of the charge of completing their

rigging, furniture and stores, with an Abstract of the whole. 1698-9.
The Abstract is as follows :—

No. 1872.

Rate and Number.				Estimate of the Charge of						Total.		
				Repairing or Rebuilding their Hulls.				Completing their Rigging, Furniture, and Stores.				
			No.	£	s.	d.	£	s.	d.	£	s.	d.
First	-	-	4	57,246	0	0	11,538	6	6	68,784	6	6
Second	-	-	9	120,121	2	0	15,024	3	0	135,145	5	0
Third	-	-	19	144,763	0	2	21,141	5	9	165,904	5	11
Fourth	-	-	12	29,418	2	1	14,362	13	9	43,780	15	10
Fifth	-	-	8	5,897	6	10	6,637	17	5½	12,535	4	3
Sixth	-	-	3	710	0	0	1,817	16	0	2,527	16	0
Fireships	-	-	7	2,546	0	8	3,310	6	4	5,856	7	0
Bombs	-	-	11	2,017	3	0	2,338	12	8	4,355	15	8
Brigantines	-	-	4	203	2	11	411	16	7	614	19	6
77				362,921	17	8	76,582	18	0½	439,504	15	8

Signed. Orford, H. Priestman, G. Wharton, R. Rich, J. Honblon,
J. Kendall. By command of their Lordships. J. Burchett.
Endorsed as received this day.

1373. Feb. 16. St Pierre's Naturalization Act.—Certificate that James St. Pierre received the Sacrament according to the usage of the Church of England in the Parish Church of St. Martin's, Westminster, on 5 Feb. 1698-9. *Signed* Tho. Yates, A.M., Curate, Fra. Boteler, Churchwarden. *Dated* 5 Feb. 1698-9. *Attested* by Jeremiah Crowther and James Gordon. [Read in Committee this day. Com. Book. The Bill came from the Commons on 10 Feb. L. J., XVI. 380. It was amended in Select Committee by adding the names of John Denty and Remond Hensbergh. (See No. 1350.) Com. Book. Royal Assent 24 March. L. J., XVI. 416. 11 Will. III. c. 14 in Long Cal.]

1374. Feb. 17. Naturalization Act (De Sibourg and another).—Certificates that the following two persons (named in the Act) have received the Sacrament, according to the usage of the Church of England, viz. :—

(1.) Charles De Sibourg, on 22 Jan. 1698-9, at the Parish Church of Wandsworth, co. Surrey. *Signed* Sa. Edgley, Minister, George Goswell, Churchwarden. *Dated* 23 Jan. 1698-9. *Attested* by Gustavus Fleetwood and Henry Crispe, of Wandsworth, Gentlemen, under whose signatures appears also that of Cl. Testefolle.

(2.) Francis St. George, on 29 Jan. 1698-9, at the Parish Church of St. Martin's, Westminster. *Signed* Tho. Yates, A.M., Curate, Fra. Boteler, Churchwarden. *Dated* 29 Jan. 1698-9. *Attested* by Anthony Villeneuve and Denis Pujolas.

[Read in Committee this day. Com. Book. The Bill was brought from the Commons on 10 Feb. ; Royal Assent 24 March. L. J., XVI. 380, 416. 11 Will. III. c. 15 in Long Cal.]

1375. Feb. 20. Writ of Summons (E. Northampton).—Writ of Summons to George, Earl of Northampton. *Dated* 13 July 1698. [Took the oaths this day. L. J., XVI. 386.]

1698-9.

No. 1376.

1376. Feb. 20. Davesseins De Moncall's Naturalization Act.—Amended* Draft of an Act to naturalize Mark Anthony Davesseins and David Loches. “Humbly beseech your most excellent Majesty, the Lords Spiritual and Temporal and Commons in this present Parliament assembled Mark Anthony Davesseins De Moncall, son of Peter Davesseins De Moneall, by Mary, his wife, born at Montesquieu in Languedoc, [Lieutenant under the French King, who left his country and employments upon account of the persecution of the Protestants, and went into Holland in the year 1685, where he was made Lieutenant of the Company of French Cadets in the Regiment of Guards, and received a pension of 450 guilders per annum, until he came over with his Majesty into this Kingdom, where he was made Captain of Grenadiers, and served in that post during all the wars of Ireland, and since as Major, in all which service he hath received several wounds,] and David Loches, son of Daniel Loches, by Frances, his wife, born at Clerac in Guienne, [Lieutenant under the French King, who left his country and employments upon account of the said persecution, and went into Holland, where he received a pension, until he came over with his Majesty into this Kingdom, where he served under his Majesty during all the wars, and was taken prisoner at Camaret Bay, after which he had great promises made of better employments and the enjoyment of his estate, in case he would quit his Majesty's service and the English interest, and was sentenced to be hanged, in case he would not; notwithstanding which promises and threatenings, as became one professing the true Protestant religion, he made his escape, and is since married to a native of this Kingdom, by whom he hath issue living], being persons born out of your Majesty's allegiance,” &c. Rest as in Act. [Read 1^a this day. Royal Assent 24 March. L. J., XVI. 386, 416. 11 Will. III. c. 26 in Long Cal.]

Annexed:—

(a) 27 Feb. Certificates that the following (named in the Act) have received the Sacrament, according to the Church of England, viz.:—

(1.) Mare Anthoyne Davesseins de Moneall, on 19 Feb. 1698-9, at the Parish Church of St. Martin's Westminster. *Signed* Tho. Yates, A.M., Curate, Fra. Boteler, Churchwarden. *Dated* 19 Feb. 1698-9. *Attested* by David Loches, and Jean Thomas La Barthe.

(2.) David Loches. *Signed* as in preceding. *Attested* by Jean La Barthe Thomas (*sic*) and Mare Anthoyne Davesseins de Moncall.

[Probably read in Committee this day, when the Bill was first considered. Com. Book.]

(b) 1 March. Lords' Amendments to the Bill. [Made in Committee Feb. 27 and 28, and reported this day. Com. Book. L. J., XVI. 393. They are marked in the text above by square brackets.]

1377. Feb. 23. Writ of Summons (Bishop of Bangor).—Writ of Summons to Humphry [Humphreys], Bishop of Bangor. *Dated* 13 July 1698. [Took the oaths this day. L. J., XVI. 388.]

1378. Feb. 23. Newfoundland Expedition (Capt. Desborow).—Petition of Charles Desborow. Petitioner was Commander of his

* The amendments were to omit the words in square brackets, so as to fit the text to the common form of Naturalization Acts. Com. Book, 27 Feb.

1698-9.

No. 1378.

Majesty's ship the '*Mary* galley in the expedition to Newfoundland in 1697, together with 10 men of war, 2 fireships and 2 bomb ketches. On 21 July* Mons. Ponti appeared off the port of St. John's, which gave the fairest opportunity imaginable to those that were then employed on that expedition to have taken him, had they then believed the intelligence given them from time to time by Petitioner and others: But instead of giving encouragement to Petitioner for his readiness to do service to the nation, and to cover their own fault, Petitioner was unjustly charged with breach of orders and neglect of duty, and dismissed from his command, which he is ready with witnesses to prove. Prays for enquiry, that justice may be done to his Majesty, Kingdom of England, and himself. [Read this day, and referred to the Select Committee appointed on 16 Feb. to consider certain papers relating to the Navy and Fortifications.† L. J., XVI. 388. The proceedings of the Committee in reference to this matter are as follows:—

1 March. Capt. Desborow's Petition and Order of Reference read. *Charles Desborow*, being called in, is asked in what manner he intends to proceed to make out the allegations in his Petition. He says he has witnesses to prove them. *Memorandum*: That Mr. Desborow answer whether the men that were taken near St. John's did not come out of France with Mons. Nesmond, or did not belong to his squadron. He gives an account of his voyage under Mr. Norris in search of Mons. Ponti. *Question*: Whether you know Mr. Norris had a power of dismissing any commander in his fleet without consulting a Council of War, or whether he only said he had such a power? He withdraws. *Question*: Why he rather now complains of Mr. Norris in his absence, than when he was in England? He is called in again and told that he shall be sworn, as also such witnesses as he has here. He desires that George Shuttleworth, at Mr. Speed's, in Small Street, Bristol, may be sent for, as also Robert Long, Master of the *Portland*, in Cork Alley, Wapping, Mr. Robinson, Master of the *Crown*, near Scarborough Castle in Wapping, Mr. Hoskins, aboard the *Bedford*, East Indiaman, Capt. Hudson, Commander. *Ordered* accordingly, and that they be sworn in the meantime. He desires also that such Captains as served in that expedition do also then attend, particularly Capt. Stapleton, Capt. Roffey, Capt. Wade, Capt. Dove, Capt. Trevanion and Capt. Day, Col. Gibson, Major Henderside [Henderson] and Capt. Petitt. *Ordered* accordingly. *Mr. Desborow* desires that the Orders the King gave the Commissioners of the Admiralty concerning the expedition to Newfoundland in 1697, and the Orders the said Commissioners gave Mr. Norris on that expedition, and all the Councils of War from 21 June to 12 August, 1697, held by Norris in Newfoundland, and the result of the Court-martial by which Petitioner was broke, may be laid before the Committee, and that such Captains as served in that expedition may also then attend the Committee. *Ordered* accordingly, and that Capt. Stapleton, Capt. Milles, Capt. Roffey, Capt. Wade, Capt. Dove, Capt. Trevanion, and Capt. Day, who served on the expedition, attend. Com. Book.

6 March. Select Committee. E. Rochester in the Chair. *The Gentleman Usher* acquaints the Committee that Col. Gibson and Major Henderson attend, and that the messenger sent to Bristol for George Shuttleworth is returned with a Certificate‡ that Shuttleworth is gone for Ireland, in order to go further on the seas. *Mr. John Fauller* delivers in the several Papers§ from the Commissioners of the

* July was substituted for June. See Annex (h).

† See No. 1372.

‡ Annex (b).

§ Annex (c).

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Admiralty, which they were directed on 1 March to send in. Being asked whether the original Councils of War are with the Commissioners of the Admiralty, he says he believes not. He is directed to bring the originals, if they be before the Commissioners, as also to fetch the books out of which the other papers were transcribed. Capt. Desborow, as also the sea captains and Col. Gibson and the land officers are called in. [Here follow notes of evidence as in the Report (Annex (h) below) down to the end of the examination of John Ram.] They withdraw. They are called in again, and being asked who was Judge Advocate, it was answered: the Chaplain in the *Lion*, who is now in the *Monmouth*. Mr. John Fauller being returned, says the original Councils of War are with Capt. Norris. He is directed to bring the Book which was delivered in to the Admiralty by Capt. Norris, out of which he wrote the copy of the Councils of War which he has laid before the Committee, and that Mr. Burchett, the Secretary, attend therewith. *Ordered* that James Petre, Chaplain in the *Monmouth*, William Whitehead, boatswain of the *Monk*, William Blake, purser of the same, Lieut. Hubbard, Lieut. Hardy, Lieut. Symonds, Capt. Smith, Capt. Watkins, Capt. Hargrave, Capt. Fookes, Capt. Brexton, and Capt. Boyd [*Noted* in margin: Sea Captains witnesses] attend the Committee to-morrow. Com. Book.

7 March. Select Committee. E. Rochester in the Chair. Mr. Desborow and the Officers are called in. Mr. Burchett, Secretary of the Admiralty, delivers in the Book (delivered in to the Admiralty Office by Capt. Norris), out of which the copy of the Councils of War in Newfoundland were transcribed and given in yesterday to the Committee by Mr. Fauller. [Here follow notes of evidence as in the Report (Annex (h) below) down to the end of the examination of William Essex.]

9 March. Select Committee. E. Rochester in the Chair. [Here follow notes of evidence, as in the Report (Annex (h) below).]

15 March. Select Committee. [Notes of evidence as in Annex (h) below, down to the end of the examination of John Bayley.]

17 March. Select Committee. [Notes of evidence as in Annex (h) below, down to the end of the examination of Capt. Thomas Cleasby.] The Consultation of 24 July 1697 was read. The Court-martial of 11 August 1697 for breaking Capt. Desborow was read. Part of the Admiralty's Instructions to Capt. Norris is read. *Memorandum*: That the King's Instructions to the Admiralty, relating to spoil taken from the enemy (desired by Mr. Desborow to be read), be considered when they are withdrawn. Capt. Desborow shows a certificate under his officers' hands of their giving him their shares in the prize taken by him. *Ordered*, That the Depositions taken at the breaking Capt. Charles Desborow in St. John's, now with the Commissioners of the Admiralty, be laid before the Committee. Capt. Stapleton is directed to bring a copy of the account of the stores charged on him to have been put on board the *Bullet*, which he says has been returned. Col. Gibson is likewise directed to bring a copy of that part of Col. Dore's Journal which was read before their Lordships. Col. Desborow is directed to leave Mr. Norris' orders to him with the Committee; one of which he left, the other, he says, is with the House of Commons, if not lost. They withdraw. *Ordered*, That the Admiralty lay before the Committee the original Order for paying Capt. Norris 1,447*l.* 14*s.*, for provisions he took out of French prizes, as also the Orders of 24 Feb. and 7 March 1697* concerning Capt. Norris,

* See Annexes (e) (f) and (g) below.

and likewise the Depositions taken at the breaking him [Desborow] at St. John's in Newfoundland. *Ordered*, That the House be moved that Capt. Desborow may have the protection of the House. It being proposed on behalf of Col. Gibson's officers that they may be dismissed, they are told they are not to attend daily, but they must not be out of the way, if they be wanted. Notice having been taken, that some of the officers had used unfitting expressions of Mr. Desborow, they are directed to take care that they do not do the like again, nor proceed farther, for the Committee will not suffer it to anyone attending them.

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18 March. Select Committee. E. Rochester in the Chair. A Clerk of the Admiralty delivers in the Orders sent for yesterday, but he says the Depositions sent for, that were said to be taken at the breaking Mr. Desborow, are not in the Admiralty Office, nor never were so, that he knows of. *Ordered* that the Commissioners of the Admiralty lay before the Committee the Order of 3 Dec. 1697 for paying 500*l.* to Mr. Cumberbatch and 150*l.* for a medal and 50*l.* to Mr. Beames*; and that they send the same to the Clerk. *Capt Joseph Stephens* (sworn) being told that the Committee have heard that he has been assaulted during his attendance on this Committee, he says the first day he attended here as a witness, he was walking with Capt. Trevanion in the Court of Requests (he thinks the room is so called). While he was talking with him, Capt. Roffey rushed in between them and stamped upon his foot hard, saying in a threatening manner "Damn you, Stephens, what make you here?" and so he took Trevanion away from me. The Tuesday after this, viz. last Tuesday, he says he met with Capt. Trevanion on the Change, and he cautioned him from coming to wait on this Committee the day following, for that we should be severely handled, and that Capt. Roffey in particular would do something to me. He says on Wednesday, while he was here attending the Committee, Capt. Roffey took him aside and said "Damn ye, Stephens; After this business is over, I'll handle you," or words to that purpose, to which the Deponent replied "We are now in England, and not in Newfoundland, to be handled at what rate you please." *Ordered* That Capt. Masters attend presently. [Here follow notes of the evidence of Capt. Desborow, as in Annex (*h*) below.] The Clerk is directed to make a copy of the notes taken against Tuesday. *Ordered*, That the notes taken at the Committee be reported.

Com. Book.

21 March. E. Rochester reported from the Select Committee on Capt. Desborow's Petition the Informations taken on oath. House *moved* to take the Report into consideration on Monday next. *Moved* to send a message to the House of Commons for L. Russell to be heard and Sir Wm. Ellis also. After debate, *Question* put, whether the consideration of this Report shall be taken on Monday next? [Then the Previous Question was put: Whether this Question shall be now put.]† Resolved in the *negative*. Contents 29; Not-Contents 36. Tellers: E. Peterborough and E. Marlborough. *Ordered* that the consideration of the Report shall be resumed on Thursday next, and no other business to intervene, and all the Lords to be summoned. MS. Min.

23 March. The House took into consideration the Report made on the 21st inst., and the Informations taken in the matter. *Moved* to hear the gentlemen upon oath that were for the fighting, what reasons the others

* See Annex (*h*¹) below.

† The words in square brackets are struck through.

- 1698-9. gave that were not for fighting Ponti. *Moved* to go into a Committee and to begin on that part of Capt. Desborow's justification or condemnation. *Moved* that the House be put into a Committee to debate this matter. House adjourned during pleasure, and put into a Committee. L. Herbert in the Chair. *Moved* to hear the Captains that were for fighting upon their oaths, those against fighting not on their oaths, and for a copy of the Court-martial. *Proposed* to declare that the not falling upon Ponti's Squadron, upon the intelligence they had, was a miscarriage. To condemn the Council of War, because the reasons [were] not set down. To declare that Capt. Desborow by your opinion may be restored to his employment. To disapprove the instructions given to Norris that the land officers have votes with the sea officers. *Proposed* to hear the sea Captains concerning the breaking Mr. Desborow who were of the Court-martial. *Proposed* to call in the Captains presently, and that each Captain give his single reason why he was for breaking Capt. Desborow; or that they give an account of their reasons for breaking Capt. Desborow. *Agreed* to call in the Captains and hear them presently. *Capt. Dove* was called in. Asked if he was of the Court-martial and was of opinion for breaking him, he says, Yes; I was for breaking him for breach of duty and neglect of orders. *Capt. Desborow* called in and asked, if he has Norris' orders for cruising. The first are left with the House of Commons; they were merely verbal. *Capt. Dove* asked: Capt. Desborow was to have gone out on the 25th, and he neglected his time, and I lent him a boat. He went the 26th, and the 27th he brought us an imperfect account. He brought us account the ships were loose. He goes to Conception Bay, and stays 3 days after, and he might have sent his boat in 8 hours, or overland in the same time. *Capt. Desborow* was heard in answer to what he said. *Capt. Stapleton* called in. Asked if he was of the Court-martial and for breaking. He says Yes; I was for breaking him, because Norris had ordered him out, and he did not return in 3 days. *Capt. Desborow* heard. *Capt. Day*, asked as before. Says Yes; for neglect of duty and breach of orders. *Capt. Roffey*, asked: I was. I cannot remember the words of the order. It appeared to me upon oath in Court-martial, he did break Norris' order. *Capt. Miles* asked: I was of the Court-martial. For breach of Norris' orders, for going on there at Carbonear, and not returning to us. Desborow confessed he had committed a fault. *Capt. Wade* asked: I was of the Court-martial. The reason was for neglect of duty, when to go out of the harbour. He went on land, when he should have returned. They withdrew. *Proposed* to put the Question, whether Desborow was not wrongfully broken? After debate, the Question was put; Whether the House shall be now resumed? Resolved in the *Negative*. Contents 33; Not-Contents 43. Tellers: E. Rivers and L. Osborne. Then the Question was put: Whether Capt. Desborow was unjustly broken? Resolved in the *Affirmative*. House *moved* to make an Address to his Majesty to restore Capt. Desborow to his favour and Capt. Desborow's just rights. House resumed. L. Herbert reported that the Committee was of opinion that Capt. Desborow was unjustly broken, and also that an Address be made to his Majesty to restore him to his Majesty's favour and his own just rights, to which the House *agreed*.* *Moved* that a time may be appointed for the House to be put into a Committee again, to consider further of the Report upon Capt. Desborow's Petition. *Ordered* that the House be put into Committee to-morrow. MS. Min. L. J., XVI. 413.

* Annex (p) below.

24 March. Order read for considering further the Report. *James Petre* (sworn). Asked if he was at Newfoundland when Desborow was broken. He says he was. He enclosed them in a letter to Mr. Bridgeman. He delivered the copies of the Affidavits taken at the Council of War against Capt. Desborow, and says they are true copies. [Lords Committees appointed to take cognizance of the Prizes of which Capt. Desborow ought to have share.]* *Ordered* that the House be put into Committee again on the matter to-morrow, and all the Lords summoned to attend. *Ordered* that William Bridgeman, Esq., late Secretary to the Admiralty, and Mr. Marriott, Doorkeeper thereunto, attend to-morrow. MS. Min. L. J., XVI. 417.

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25 March. House in Committee, L. Herbert in the Chair. *Proposed* to declare that the not going out to [fight] *seek for* Pontii *after those informations* was a great [neglect of their duty] *miscarriage* and disservice to the King and Kingdom. *Agreed* to be the opinion of the Committee that the not going out to [seek for] *fight* Pontii, upon the several intelligences given them, was a very high miscarriage, to the great disservice of the King and Kingdom. Committee *moved* to order that when Capt. Norris arrives he be ordered immediately to attend this House. *Agreed to*. House resumed, and L. Herbert reported the last two Resolutions, to which the House agreed. *Ordered* that the House be put into a Committee again on Monday next. MS. Min. L. J., XVI. 419.

27 March. House in Committee. [*Proposed*]: That the land officers being joined with the sea officers was one cause of the not going out to fight Pontii. *Agreed* that the joining the land officers with the sea officers in the Council of War of the 24th July 1697 was one occasion of a miscarriage in not fighting Pontii. House resumed, and L. Herbert reported the above Resolution, which was agreed to. *Moved* that leave be given for the House to be put into a Committee again. *Agreed*: That the original sentences of all Court-martials shall be transmitted to the Judge Advocate. That the original depositions, upon which the sentences of Court-martials are founded, be always transmitted to the Judge Advocate. And that in all sentences of Court-martials, the crimes for which the offenders are sentenced be particularly specified. *Moved* to appoint a Committee to draw an Address to be presented to his Majesty upon what is agreed on. *Agreed*.

This Committee met on 31 March (E. Stamford in the Chair), and April 3, 13 and 17 (E. Rochester in the Chair), the first two meetings being only formal. On 13 April a Petition of Capt Desborow, offered by E. Oxford, was read, and an Address drawn, with blanks to be filled up out of the Petition, the Depositions and the Orders for breaking Mr. Desborow, against the next meeting. On 17 April the Address was read again, and with some alterations agreed to and Ordered to be reported. Com. Book.

17 April. Address reported by E. Rochester and read and agreed to. *Proposed* that an addition be made to the Address relating to Capt. Norris,† which was agreed to on the debate, and the L. President, E. Rochester, M. Normanby, and E. Oxford Ordered to withdraw, to word what shall be added to the Address, which they did. Then, after some time, E. Rochester reported what was drawn to be added to the

* The words in square brackets are struck through.

† On 13 April the House Ordered the Commissioners of the Admiralty to give an account when Capt. Norris was expected home. MS. Min. L. J., XVI. 436. Their answer appears in Annex (n).

- 1698-9. Address, which was read and agreed to be added to the Address.
 — *Ordered*, that the Lords with White Staves attend his Majesty with
 No. 1378. the Address. MS. Min. L. J., XVI. 438-440. *In extenso*.

Annexed:—

- (a) 23 Feb. 1698-9. Order of the House this day, referring Capt. Desborow's above Petition to the Select Committee. L. J., XVI. 388. *In extenso*.
 (b) 6 March 1698-9. Certificate, *signed* Barn. Shuttleworth, informing their Lordships, by the bearer Mr. Anthony Dagly, that George Shuttleworth, who had been summoned to attend, had gone to Ireland and so to proceed further on the seas. *Dated* Bristol, 3 March 1698-9. *Endorsed* as dated above.
 (c) 6 March 1698-9. Copy of the draft of Instructions, sent to the Lords of the Admiralty by the King's command, relating to the Newfoundland Squadron, and of what the Lords Commissioners of the Admiralty proposed and was approved of by the King in Council, as follows:—

Extract of a Letter from Mr. Blathwayt to the Secretary of the Admiralty, dated at Whitehall, 15 March 1696-7.

Enclosed I send you, by his Majesty's Order, the drafts of Instructions for Col. Gibson and the Commander of the Squadron going to Newfoundland, to the end the Lords Commissioners of the Admiralty may represent their observations thereupon to his Majesty.

Instructions for [Captain John] Norris, Commander of the Squadron going to Newfoundland.

You shall, upon the receipt of these our Instructions, sail to St. Helens or Spithead, taking with you the men of war, fireships and tenders designed for the present expedition that shall be in the River, as also the transport ships that are going thither. You are, upon your arrival at Spithead or St. Helens, to receive on board the soldiers that shall be ready to embark, allowing them the best conveniency you can, with such provisions as are appointed for them, and having further taken under your convoy such vessels as have other soldiers, provisions and stores of ordnance on board, with the hospital ships appointed for our forces, you are, with the first opportunity of wind and weather, to proceed to Newfoundland, and upon your arrival on that coast, to make the best enquiry you can concerning the French, and to take or destroy such of their ships as shall be in your power during your stay in those parts. And you are likewise, when it shall be desired by the Commander in Chief of our forces, to put such number of the forces on shore and in such harbours, and to take such of them on board again and transport them from place to place as he shall judge requisite or shall be determined at a Council of War, securing the coast in the best manner from the enemy. And you are further to be assisting with our squadron to the Commander in Chief of our land forces in the attempt that shall be made against the enemy at land, and if there be occasion and you shall judge it consistent with our service at sea, you are at the desire of the Commander in Chief of the forces to cause such a number of seamen to go on shore and to be employed there from time to time as may conduce to the better success of this expedition. You are likewise to inform yourself of the condition of the French at

Placentia and other southern ports of Newfoundland, and if there be any opportunity and no prejudice like to arise to our service elsewhere, you are, if the Commander in chief of the forces and the Council of War shall find it requisite, to do what shall lie in your power to annoy the enemy in those parts. You are during your stay on the coast to appoint some ships, if there be no reason to the contrary, to cruise upon the Bank of Newfoundland, as well as upon the coast, for disturbing the French fishery there. And whereas it is his Majesty's pleasure that Councils of War be held as often as there shall be occasion; and that the same shall consist of yourself, and of the sea Captains and of the Colonel, Lieut. Colonel, Major and such Captains of the regiment that shall be sent thither as shall be called thereunto by the Commander in Chief of the land forces, and that yourself shall preside and have the chief command while all the said forces shall remain at sea, and that when all or any of the said forces shall be put on shore the Commander in Chief of our said forces do then preside at the Councils of War and command in chief as well the ships of war as the said forces, according to the advice of such Council of War. You are to conform yourself to his Majesty's pleasure herein, provided always that the Commander in Chief of the forces do not upon any pretence whatsoever intermeddle with the discipline of the said squadron, nor suspend, place or displace any officer belonging to the same. And as the success of this expedition will depend very much upon the due compliance with the orders hereby given you, and in the good agreement and concurrence of you and the Commander of the land forces in all that may tend to his Majesty's service, we do strictly charge and require you to have a principal regard to the purposes herein intended, so that his Majesty's service be not disappointed by any unnecessary scruples or difficulties, which you are by all means to avoid, as you tender his Majesty's highest displeasure. For the greater encouragement of yourself, the officers, seamen and land forces in performance of this service, his Majesty hath been pleased to declare that all spoil that shall be taken from the enemy shall be divided among you and them, except only guns, arms and ammunition, ships of war and sails, cordage, anchors, naval and ordnance stores, which are to be reserved unto his Majesty. Lastly, you shall by the opportunity of any ships coming for England, or by sending a vessel or vessels express, as there may be occasion, give us information of your proceedings in the execution of these our instructions; and having performed this service, you are to return from Newfoundland before the winter season with such of the land forces as the Commander in Chief shall put on board, taking likewise under your convoy such other vessels on board of which any other of the forces may have their passage, together with such fishing ships and sacks [smacks] as shall be ready to return with you.

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Memorandum. The before going draft of Instructions being, according to his Majesty's command, perused by the Lords Commissioners of the Admiralty, and their Lordships having prepared the following Instructions which they thought necessary for the Commander in Chief of the Newfoundland Squadron, the same was laid before the King and read and approved of by his Majesty in Council.

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No. 1378.

Instructions for Capt. John Norris, Commander in Chief of the Squadron of his Majesty's ships bound to Newfoundland.

Whereas we have appointed the ships mentioned in the margin to be under your command, you are therefore hereby required and directed, so soon as the land forces designed for Newfoundland shall be embarked on board the aforesaid ships, and such merchant ships and vessels as shall be taken up to receive them, and they, together with the hospital ship for the forces and other vessels which carry ordnance stores and other necessaries shall be ready, to make the best of your way with them to Newfoundland, taking care that the land forces be victualled in the same manner as the companies belonging to the men of war, and that they be accommodated on board the ships in as good a manner as they can admit of. When you arrive on the coast of Newfoundland, you are to endeavour to gain the best intelligence you can of the French, and to take or destroy any of their ships or vessels which may be in your power, during the time you stay with the squadron under your command in those parts. And when you shall be desired by the Commander in Chief of his Majesty's forces to put any of the said forces on shore in any particular harbour or harbours, and to take all or part of them on board again, and transport them from place to place, you are to proceed in the doing thereof according as shall be agreed upon at a Council of War of the sea and such land officers as shall be thought necessary to be called to assist thereat by the Commander in Chief of the land forces, using your utmost endeavours to secure the coast from the enemy. You are to be assisting with his Majesty's ships under your command to the Commander in Chief of the land forces in any attempts that shall be made against the enemy at land; and if there shall be occasion, and it shall be thought consistent with his Majesty's service at sea by a Council of War of the commanders of the ships, you are, at the desire of the aforesaid Commander in Chief of the forces, to cause a number of seamen to be put on shore and employed there from time to time in such manner as may conduce to the better success of the expedition whereon you are designed, which seamen are to be commanded while on shore by the chief land officer there. You are also to inform yourself in the best manner you can of the condition of the French at Placentia and other southern ports of Newfoundland, and if a Council of War of the sea and land officers shall find there is any opportunity, and no prejudice like to arise to his Majesty's service elsewhere, you are to do what shall lie in your power to annoy the enemy in those parts, in case the Commander in Chief of the forces shall desire the same. And during your stay on the coast with the squadron under your command you are to appoint some of the ships to cruise upon the Bank of Newfoundland, as well as upon the coast, for disturbing the French fishery there, provided you shall have no reason to apprehend that his Majesty's service may otherwise suffer by your doing thereof. And whereas we think it necessary that Councils of War should be held to consult about all such matters as are of importance to his Majesty's service, and that the same should consist of yourself and the Captains in your squadron, and of the Colonel, Lieutenant Colonel, Major and such Captains of the regiment as shall be called thereunto by the Commander in Chief of the land forces, You are therefore

to take notice, that yourself is to preside at all Councils of War while all the said forces are at sea; but when all or part of the said forces shall be on shore and the Commander in Chief on shore with them, and shall think it necessary to have the advice of yourself and the sea officers at a Council of War, you are with the said officers to assist at the said Councils of War, where he the said Commander in Chief is to preside. And according to what shall be agreed to by the major part of all such Councils of War as are called on shore you are to govern yourself in the proceeding with the ships under your command. And whereas the success of the service whereon you are going does entirely depend on the good agreement between yourself and the Chief Commander of the land forces, you are therefore hereby strictly charged and required to take all possible care on your side that no unnecessary scruples or difficulties do arise, but that all possible endeavours be used for the effectual performance of the service. And whereas his Majesty hath declared his pleasure that for the greater encouragement of yourself, as well as the sea and land officers and men, all spoil that shall be taken from the enemy shall be divided among you and them, except only guns, arms and ammunition, ships of war, sails, cordage, anchors, naval and ordnance stores, which his Majesty reserves unto himself; You are to make this known to the officers and seamen, to encourage them to do their utmost, and to take care as to what relates to your part as Commander in Chief of the squadron, that no differences do arise among the officers, seamen and soldiers in the distributing the said spoil. You are by the opportunity of any ships coming for England, or by sending a vessel or vessels express, as there may be occasion, to transmit to his Majesty by hands of one of his Majesty's principal Secretaries of State and to this board an account of your proceedings, and when you shall have done your utmost in the performance of what is before directed you are to return from Newfoundland before the winter season, with such of the land forces as the Commander in Chief shall think fit to order on board, taking under your convoy such vessels as may have other part of the forces in them, and such fishing ships and sacks [smacks] as may be ready to come home with you. By Command of their Lordships. *J. Burchett.*

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(c¹) 6 March 1697-8. Copies of the Councils of War, from the 21st of June 1697 to the 12th of August following, held by Capt. Norris, Commander in Chief of the Newfoundland squadron, and the result of the Court-martial by which Capt. Desborow was broke; as follows:—

At a Consultation held on board his Majesty's ship the *Monk* in St. John's harbour the 22nd June 1697, Capt. John Norris, President—

Capt. Fran. Dove.	Capt. Tho. Smith.
Capt. Robt. Stapleton.	Col. Gibson.
Capt. Cha. Desborough.	Lieut.-Col. Dore.
Capt. Kerri. Roffey.	Major Handasyd [Henderson].
Capt. John Drake.	Capt. Brexton.
Capt. Nieh. Trevanion.	Capt. May.
Capt. John Cranby.	Capt. Dalyell.

It is the general opinion, from the examination of the prisoners belonging to the *Two Marianas* of Rochelle, taken by the *Monk*

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the 16th June 1697 on the Bank of Newfoundland, and letters found on board her for Placentia, where she was bound, that there is very reasonable ground to believe there is a greater force coming, if not already come, to Newfoundland than we are at present in the country; and we therefore agree that, for the general security, the squadron doth continue in the port of St. John's, until we shall be enabled, by the arrival of our ships from England, to fortify this harbour and meet the French, or till we gain some further intelligence. *Signed* by above-named.

At a Councell of War held on board the *Monk* in St. John's harbour the 28th June 1697, Capt. John Norris, President.

Capt. Dove.	Col. Gibson.
Capt. Stapleton.	Lieut.-Col. Dore.
Capt. Littleton.	Major Handasyd.
Capt. Desborough.	Capt. Brexton.
Capt. Roffey.	Capt. May.
Capt. Cleasby.	Capt. Boyd.
Capt. Drake.	Capt. Smith.
Capt. Trevanion.	Capt. Hargrave.
Capt. Cranby.	Capt. Rigby.
Capt. Day.	Capt. Dalyell.
Capt. Smith.	Capt. Pettitt.
Capt. Mastertown.	Capt. Gibson.
Capt. Martin.	

It is generally agreed; First, that the ships may be at sea 21 days, and that they call at their return in our ports to the southward of St. John's, as Trapassa [Trepassy B.], Rannusse [Renews Harbour], Turnasse and Ferryland, and that the sea and land forces continue at half allowance of bread, short allowance of all other provisions, and save the oatmeal and flour until our return for England or further supply; and that the men of war may be supplied with 60 soldiers to complete their middle complement now going to sea. *Signed* by above-named.

At a Consultation held on board his Majesty's ship *Monk* at sea this 5th July 1697, Capt. John Norris, President.

Capt. Dove.	Capt. Drake.
Capt. Stapleton.	Capt. Trevanion.
Capt. Littleton.	Capt. Cranby.
Capt. Desborough.	Capt. Day.
Capt. Roffey.	

From the examination of the prisoners taken in the *Good Hart* and *Unity* the 5th July 1697, who came in company from Rochfort the 5th May with eleven men of war and four fireships, bound for Cape de Raee under the command of Monr. Nesmond, and two swallow tailed flags, three of the men of war from 60 to 70 guns, the other about 50, whom they lost company with the 23rd of June; in ease of separation, the merchant-men were directed to Placentia, to make up their ships, being bound for Canada. In consideration of the enemy's strength, we generally agree that we immediately repair to St. John's for the better securing the squadron, and that port, in ease it should be attacked by the enemy; and whereas by the prisoners they generally believe the squadron to be in the W.N.W. of us, we

agree to steer N. till we get the latitude of St. John's, and then haul in for the port. *Signed* by above-named. 1698-9.

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At a Consultation held on board his Majesty's ship *Monk* in St. John's harbour, this 15th July 1697, Capt. John Norris, President.

Capt. Dove.	Capt. Cranby.
Capt. Stapleton.	Capt. Mighells.
Capt. Littleton.	Capt. Drake.
Capt. Wade.	Capt. Day.
Capt. Roffey.	Capt. Trevanion.
Capt. Cleasby.	Capt. Smith.
Capt. Desborow.	

Whereas the land officers request assistance for our people to work at their works at land, it is generally agreed that we spare out of the men of war 100 working men each day, to work at land by ourselves, which we desire may be at the fortification of the harbour's mouth, under the command of our own officers, and not to be commanded by any officers at land but Col. Gibson. That the carpenters belonging to the squadron which is not in immediate works be disposed to the assistance of cutting palisadoes and breaking up the two raeks, and afterwards the other vessel, if wanted. The number of carpenters of the squadron is 16 to work, or of prisoners 8, and that one be taken from each merchant-man that has built his stage, and 30 seamen to assist the carpenters in their works. That we spare 7 of our greatest guns with their carriages, ball, rammers and ladles for the fortification in the harbour's mouth. *Signed* by above-named.

It is generally agreed to restrain what quantity of provisions is come into quarters in the merchant-men for the use of the sea and land forces, to help complete our provisions to last to the end of November, and enabling us to leave provisions for the forces left in the country and our several convoys.

At a Council of War held on board his Majesty's ship *Monk* in St. John's harbour this 22nd July 1697, Capt. John Norris, President.

Capt. Dove.	Capt. Smith.
Capt. Stapleton.	Col. Gibson.
Capt. Littleton.	Lieut.-Col. Dore.
Capt. Desborow.	Major Handasyd.
Capt. Wade.	Capt. Brexton.
Capt. Mighells.	Capt. Hargrave.
Capt. Roffey.	Capt. Rigby.
Capt. Day.	Capt. Dalyell.
Capt. Drake.	Capt. Petitt.
Capt. Trevanion.	Capt. Watkins.
Capt. Cranby.	

Whereas there is appearance of the enemy before the harbour, and reasonably to expect their attacking us at sea and land, it is generally agreed that the land forces be embarked for the general security, and that we oblige the people at Trilla Villa and Petty harbour to leave their fishing and come to this harbour. *Signed* by above-named.

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At a Consultation held aboard his Majesty's ship *Monk* in St. John's harbour 24 July 1697, Capt. John Norris, President.

Capt. Dove.	Col. Gibson.
Capt. Stapleton.	Lient.-Col. Dore.
Capt. Littleton.	Major Handasyd.
Capt. Roffey.	Capt. Brexton.
Capt. Wade.	Capt. May.
Capt. Mighells.	Capt. Boyd.
Capt. Cranby.	Capt. Smith.
Capt. Day.	Capt. Hargrave.
Capt. Smith.	Capt. Dalyell.
Capt. Drake.	Capt. Foulks.
Capt. Trevanion.	Capt. Watkins.

Upon consideration of the 5 French ships that appeared off this port, and the report of more being seen both off here and to the southward, it is generally agreed they are a part of Mons. Nesmond's squadron, and that the rest may be in the offing, which, from all accounts, it is believed they are much stronger in force than our squadron; and therefore it is resolved that the squadron do continue in the harbour of St. John's for the general security, and send a clean frigate out to make their squadron and gain us further intelligence. *Signal* by above-named.

Since what passed this morning, having received express from the Masters of the merchant ships at Carbonear of five French men of war being seen off that port, which we judge to be a part of Mons. Nesmond's squadron, and thereon calling a second consultation, whether our squadron should go to sea or not, the question being put, the votes are as follows, every man signing to his own vote:—

Fra. Dove.	Yea.	Thom. Smith.	No.
Robt. Stapleton.	Yea.	John Gibson.	No.
Jam. Littleton.	No.	Tho. Dore.	No.
Cha. Desborow.	Yea.	Tho. Handasyd.	No.
Cooper Wade.	Yea.	Griff. May.	No.
Kerrl. Roffey.	No.	Cliff. Brexton.	No.
Jam. Mighells.	Yea.	Hugh Boyd.	No.
Thom. Day.	Yea.	M. Smith.	No.
John Cranby.	Yea.	Jos. Hargrave.	No.
John Drake.	No.	Robt. Dalyell.	No.
Nich. Trevanion.	No.	H. Petitt.	No.
John Norris.	Yea.	Geo. Watkins.	No.

These votes were signed the 24th July at 3 in the afternoon aboard the *Monk* in St. John's harbour, as witness my hand, John Norris.

At a Consultation held on board his Majesty's ship the *Monk* in St. John's harbour this 25th July 1697, Capt. Norris, President.

Capt. Dove.	Capt. Drake.
Capt. Stapleton.	Capt. Trevanion.
Capt. Littleton.	Capt. Cranby.
Capt. Desborow.	Capt. Smith.
Capt. Wade.	Col. Gibson.
Capt. Mighells.	Lient.-Col. Dore.
Capt. Roffey.	Major Handasyd.
Capt. Day.	Capt. Brexton.

Capt. May.	Capt. Petitt.
Capt. Boyd.	Capt. Foulks.
Capt. Smith.	Capt. Gibson.
Capt. Hargrave.	Capt. Watkins.
Capt. Dalyell.	

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Upon the debates on Alexander Cumberbatch's letter, who came, as he says, from on board Mons. Ponti, and is said to be returned to him again, with very good reason we have to believe of Mons. Nesmond's being come to this country with a squadron, and supposing the above Alexander Cumberbatch was sent on shore by the French on a design for their service, it is agreed that the squadron do continue in St. John's till further intelligence, and that the utmost endeavours be used for the same. *Signed* by above-named.

At a Consultation held on board his Majesty's ship the *Monk* in St. John's harbour this 25th July 1697, Capt. John Norris, President.

Capt. Dove.	Major Handasyd.
Capt. Stapleton.	Capt. Brexton.
Capt. Littleton.	Capt. May.
Capt. Wade.	Capt. Boyd.
Capt. Roffey.	Capt. Smith.
Capt. Day.	Capt. Hargrave.
Capt. Mighells.	Capt. Rigby.
Capt. Cranby.	Capt. Dalyell.
Capt. Trevanion.	Capt. Foulks.
Capt. Smith.	Capt. Petitt.
Col. Gibson.	Capt. Gibson.
Lieut.-Col. Dore.	

Upon a full examination of the French prisoners taken in a boat by Capt. Littleton at Carbonear, who say they belonged to the *St. Michael*, one of the five men of war said by them to be commanded by Mons. Ponti, and upon other intelligence and advice received both by sea and land, it appearing that the said squadron, coming, as they say, from Cartagena, was to rendezvous at Placentia, that they lay to and fro off the island for several days, and when they lay off this harbour they had fair winds to go to Placentia, yet they plied to the northward, and went into Conception bay, where they have stayed a considerable time (after they knew us to be here, and our strength, by prisoners they took) under a pretence of being in want of men, provisions and water, and that they were richly laden with silver and gold, which was reported to us by an Englishman they sent to Carbonear with this story, but he returned to them again, and upon consideration of our former intelligence, it is very probable that Mons. Nesmond (who sailed a considerable time since with 11 men of war and 3 fireships, being bound to Placentia) is there or upon this coast. Considering (upon the debates of these matters) that great danger may accrue to the public service, wherein we are concerned, by the separation of our fleet and land forces, and their communication being intercepted, by which the design of the present expedition would be wholly ruined, it is therefore agreed, that the squadron shall not sail in pursuit of the French fleet, but remain here for the security of the whole. *Signed* by above-named and Geo. Watkins.

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At a Council of War held on board his Majesty's ship the *Monk* in St. John's harbour, this 30th July 1697, Capt. John Norris, President.

Capt. Dove.	Major Handasyd.
Capt. Stapleton.	Capt. Brexton.
Capt. Wade.	Capt. May.
Capt. Roffey.	Capt. Boyd.
Capt. Drake.	Capt. Smith.
Capt. Trevanion.	Capt. Hargrave.
Capt. Cranby.	Capt. Rigby.
Capt. Day.	Capt. Dalyell.
Capt. Littleton.	Capt. Foulks.
Capt. Smith.	Capt. Petitt.
Col. Gibson.	Capt. Gibson.
Lieut.-Col. Dore.	

It is agreed, for the better forwarding his Majesty's service at land, that the regiment be set on shore again. *Signed* by above-named.

At a Consultation held on board the *Monk* in St. John's harbour this 4th of August 1697, Capt. John Norris, President.

Capt. Stapleton.	Major Handasyd.
Capt. Littleton.	Capt. Brexton.
Capt. Wade.	Capt. May.
Capt. Roffey.	Capt. Smith.
Capt. Mighells.	Capt. Hargrave.
Capt. Day.	Capt. Rigby.
Capt. Drake.	Capt. Dalyell.
Capt. Trevanion.	Capt. Foulks.
Capt. Cranby.	Capt. Petitt.
Capt. Smith.	Capt. Gibson.
Col. Gibson.	Capt. Watkins.
Lieut.-Col. Dore.	

Upon the consideration of Capt. Will. Cooke, Master of the *John and William*, showing the great necessity his ship's company lies under for the want of bread, having none to subsist them, nor cannot buy any in the country at any rates, in consideration of which, it is agreed, for the relief of his ship's company, that he be paid out of our provisions 2,000 weight of bread, he giving assurance, when the provisions he expects shall arrive in this country, to repay the same, and for the preventing this let of provisions shortening our time, it is agreed to be stopped out of our allowance. *Signed* by above-named.

At a Court-Martial held on board the *Monk* in St. John's harbour this 11th of August 1697, Capt. John Norris, President.

Capt. Dove.	Capt. Mighells.
Capt. Stapleton.	Capt. Day.
Capt. Littleton.	Capt. Trevanion.
Capt. Wade.	Capt. Cranby.
Capt. Roffey.	Capt. Smith.
Capt. Cleasby.	

Upon full examination of orders given to Capt. Chas. Desborow, Commander of his Majesty's ship *Mary* galley, by Capt. John Norris, Commander in Chief of his Majesty's ships in Newfoundland, it being found that he is guilty of neglect of duty and breach

of orders, and that he comes under the former part of the 11th Article of War, established for the regulating and better government of his Majesty's ships of war and forces by sea, It is unanimously agreed that he be therefore dismissed from his present employment of Commander of his Majesty's said ship.
Signed by above-named.

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By command of their Lordships. J. Burchett.

(c²) 6 March 1698-9. Instructions for Capt. John Norris, Commander in Chief of the squadron of his Majesty's ships bound to Newfoundland, upon which he proceeded, as follows:—

By the Commissioners for executing the office of Lord High Admiral of England, Ireland, &c.

Whereas we have appointed the ships mentioned in the margin hereof to be under your command, you are therefore hereby required and directed, so soon as the land forces designed for Newfoundland shall be embarked on board the aforesaid ships, to take under your care and protection all trading ships and vessels, and others which shall be bound with you and then ready to sail, and without making any stay for such as may be expected to join you from the river, proceed with them the first opportunity of wind and weather to make the best of

4. <i>Monk.</i>	
<i>Lion.</i>	
<i>Guernsey.</i>	
<i>Portland.</i>	
5. <i>Mary galley.</i>	
<i>Lyme.</i>	
6. <i>Seahorse.</i>	
<i>Dunwich.</i>	
<i>Comet</i> }	Bombs.
<i>Blast</i> }	
<i>Hunter</i> }	Fireships.
<i>Etna</i> }	
<i>Suffolk,</i>	Hagboat.

your way to Newfoundland, taking care to send one of the men of war before you to Plymouth, to bring out from thence such ships and vessels as are appointed to join and proceed with you, as also the *Etna* fireship, in case she shall not arrive at Spithead before you sail. And you are to take care that the land forces be victualled in the same manner as the companies belonging to the men of war, and that they be accommodated aboard them in as good manner as they can admit of. When you arrive at the coast of Newfoundland, you are to endeavour to gain the best intelligence you can of the French, and to take or destroy any of their ships or vessels which may be in your power during the time you stay with the squadron under your command in those parts, taking under your command upon your arrival there the *Bonadventure* hired ship, already gone, and the *Crown*, which is going thither from Plymouth. And when you shall be desired by the Commander in Chief of his Majesty's forces to put any of the said forces on shore, in any particular harbour or harbours, and to take all or part of them aboard again, and transport them from place to place, you are to proceed in the doing thereof according as shall be agreed upon at a Council of War of the sea and such land officers as shall be thought necessary to be called to assist thereat by the Commander in Chief of the land forces; and when any of the said forces shall be put on shore, you are to take particular care that provisions and other necessaries be sent with them from the ship answerable to the time they are designed to continue on shore, and you are to use your best endeavours to secure the coast from the enemy. You are to be assisting with his Majesty's ships under your command to the Commander in Chief of the land forces, in any attempts that shall be made against the enemy at land, and if there shall be occasion and it shall be

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thought consistent with his Majesty's service at sea by a Council of War of the commanders of the ships, you are at the desire of the aforesaid Commander in Chief of the forces to cause a number of seamen to be put on shore and employed there from time to time in such manner as may conduce to the better success of the expedition on which you are designed, which seamen are to be commanded while on shore by the chief land officer there. You are also to inform yourself, in the best manner you can, of the condition of the French at Placentia, and other southern ports of Newfoundland; and if a Council of War of the sea and land officers shall find there is any opportunity, and no prejudice like to arise to his Majesty's service elsewhere, you are to do what shall lie in your power to annoy the enemy in those parts, in case the Commander in Chief of the forces shall desire the same. During your stay on the coast with the squadron under your command, you are to appoint some of the ships to cruise upon the Bank of Newfoundland, as well as upon the coast, for disturbing the French fishery there, provided you shall have no reason to apprehend that his Majesty's service may otherwise suffer by your doing thereof. And whereas we think it necessary that Councils of War should be held to consult about all such matters as are of importance to his Majesty's service, and that the same should consist of yourself and the Captains of your squadron, and of the Colonel, Lieutenant-Colonel, Major, and such Captains of the regiments as shall be called thereunto by the Commander in Chief of the land forces: You are therefore to take notice that yourself is to preside at all Councils of War while all the said forces are at sea, but when all or part of the said forces shall be on shore and the Commander in Chief on shore with them, and shall think it necessary to have the advice of yourself and the sea officers at a Council of War, you are, with the said officers, to assist at the said Council of War where he, the said Commander in Chief, is to preside. And according to what shall be agreed to by the major part of all such Councils of War as are called on shore, you are to govern yourself in the proceeding with the ships under your command. And whereas the success of the service whereon you are going does entirely depend on the good agreement between yourself and the Commander in Chief of the land forces, you are therefore hereby strictly charged and required to take all possible care on your side that no unnecessary scruples or difficulties do arise, but that all possible endeavours be used for the effectual performance of the service. And whereas his Majesty hath declared his pleasure that for the greater encouragement of yourself, as well as the sea and land officers and men, all spoil that shall be taken from the enemy shall be divided among you and them, except only guns, arms and ammunition, ships of war, sails, cordage, anchors, naval and ordnance stores, which his Majesty reserves unto himself: You are to make this known to the officers and seamen, to encourage them to do their utmost, and to take care as to what relates to your part as Commander in Chief of the squadron that no difference do arise among the officers, seamen and soldiers, in the distributing the said spoil. You are to be aiding and assisting to the Admirals, Vice-Admirals, and Rear-Admirals of the respective ports and harbours in Newfoundland, from time to time as need shall require, in the preserving peace and government amongst the

seamen and fishermen there and apprehending of offenders. So soon as you shall be out of the Channel, you are, for the better enabling you to execute these orders, to put your ship's company to short allowance of victuals of six to four men's allowance, or otherwise, as the necessity of the service shall require, assuring the seamen that they shall be duly paid for the same. You are to take care that there be not taken into any of his Majesty's ships under your command to be transported to Newfoundland any seamen or other persons, except such as do belong to the said ship and the land soldiers before mentioned. Nor are you to permit the taking on board any sort of fish, either by merchandize, freight or otherwise, except what shall be for the use and spending of the ships' company. You are by the end of September next to order one of the ships under your command to take under his convoy such of the merchant ships as are bound to Cadiz and the Straits, and to see them in safety to the several ports whereto they are bound as high as Barcelona, and no higher, unless he meets with orders at that place. And not to anchor in Cadiz bay, but only see his convoy safe into the said bay, and that he do not stay at Barcelona longer than ten working days; and then to take under his convoy such ships of his Majesty's subjects as shall be there homeward bound and ready to come away with him calling in at Mayorke [Majorca], Alicant, Malaga and Cadiz; but he is not to stay at Cadiz above six days, and to bring with him all such merchant ships as shall be coming from thence, and make the best of your way with them to England, directing him to call in at Plymouth, where, if he finds no order to the contrary, then to come to the Downs and send notice of his arrival. You are also to order one of the ships with you, which you shall think the most proper, to proceed by the latter end of the aforesaid month of September, with such ships as are bound to Portugal, directing her commander to see such as are designed for Lisbon safe into that port, and then to repair with the remainder into Oporto, and without making any stay to proceed to England, calling in at Plymouth for orders, and finding none there to the contrary to repair to the Downs and send us notice of his arrival, with an account of his proceedings. You are likewise at the aforesaid time to order another man of war of your squadron to proceed with such of the merchant ships as are bound to Bilboa, and convoy them in safety thither; and without making any stay there to proceed to England, calling in at Plymouth for orders; and, finding none there to the contrary, to repair to the Downs, and send us notice of his arrival, with an account of his proceedings. And when you shall have done your utmost in the performance of what is directed by these our Instructions, you are to return to England with the remainder of your squadron before the winter season, with such of the land forces as the Commander in Chief shall think fit to order on board, taking under your convoy such vessels as may have other part of the forces on board them, and such fishing ships and sacks [smaeks] as may be ready to come home with you, calling in at Plymouth and finding no orders there to the contrary, to repair without loss of time to the Downs. And you are, at your leaving Newfoundland, to put ashore, for the use of such land soldiers as shall be appointed to remain there, such quantities of provisions as may conveniently be spared from the

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ships under your command. But in case the service which is to be performed at Newfoundland will not admit of your coming from thence by the end of September next, and that the merchant ships with train-oil and passengers shall be then in readiness to sail, you are to appoint one of the ships of your squadron to take them under her convoy, and to see them in safety to England as aforesaid. You are during this voyage to take care that all other ships and vessels bound your way, which shall be ready to sail either with yourself or the ships which you detach from the squadron on the before-mentioned service, be convoyed in safety as far as their way shall lie together. And you are by the opportunity of any ships coming for England, or by sending a vessel or vessels express as there may be occasion, to transmit to his Majesty, by the hands of one of his principal Secretaries of State, and to this Board, an account of your proceedings. Dated at the Admiralty Office, this 11th April 1697. E. Russell; H. Priestman; J. Houblon; J. Kendall. By Command of their Lordships. J. Burchett.

(d) 7 March 1698-9. Copy of Mr. Desborow's Letter to L. Orford, as follows:—

May it please your Lordship,

Since my coming to town, which is about three weeks past, I have endeavoured to wait on your Lordship, but your Lordship's multiplicity of business hath not allowed me access. My lord, I humbly beg your Lordship's pardon for presuming to lay before you my late misfortunes. But the great favours I have received of your Lordship on behalf of my Lord Russell and Sir William Ellis obliged me to let your Lordship know Capt. Norris his severe proceedings against me, and for no reason, as I can imagine, except for being too forward to venture my life against the enemy, and opposing Colonel Gibson's quitting his camp and running aboard the ships for safety upon a motion of the enemy's approach, when there was none come to hurt, for which I was reprimanded in such a manner as is not usual, and, if I may have the honour to wait on your Lordship, I shall more at large inform your Lordship of the particulars. Having obtained leave of Capt. Norris to clean his Majesty's ship *Mary* galley, then under my command, which I did all at my own charges, five ships appeared off the harbour of St. John's, which was supposed to be part of Mons. Nesmond's squadron. It was my chance to meet with four Englishmen, that had been prisoners on board the French, and taken coming from the West Indies, and had made their escape, who gave us account that those five sail was no part of M. Nesmond's, but Ponti his squadron. Mr. Norris gave me orders (a copy whereof is enclosed) to go to make them. I went out on the Monday, and on the Wednesday following I returned and found a general Council of War, to whom I gave account of the French, which hath agreed with all others we have had since, who was then in Conception bay standing from Belleisle to Carbonear, and when at a consultation before my going out there was but three sea captains that was against our going out which was of the *Portland*, *Guernsey* and *Seahorse*. At my return they were so much discouraged, that there was but one besides myself that was for going out, and that was of the *Hunter* fireship. After it was thus generally agreed not to go out to fight the enemy,

the same afternoon Mr. Norris sent me out again, not giving other orders, but what was verbal, which was to go and observe their motion, and, if nothing extraordinary happened, to return in three days. The same night, about 12 o'clock, I met with five ships standing out of Conception bay, steering E. by N. and E.N.E. I endeavoured to keep them company, but as soon as they saw me they put out their lights, and in a gust of wind and rain and thick fog I lost sight of them. They keeping so far northwardly with the variation is almost N.E. gave me reason to believe they designed to go to some of our harbours to the northward to supply themselves with what they could not get where they were before. The storm did not last long, but continued thick with little wind, and when day came on, the wind being westerly, it was clear upon the land, but hoary in the offing. I could not see them, they having, after putting out their lights, stood to the southward. When I had thus left them, I thought it my duty to go to Carbonear, from whence they came the evening before, and inform myself of their actions there from the English who had, whilst their being in Conception bay, observed their motions, who told me that they had continually employed their boats in fetching water, and did believe, since they were not to be seen to the northward, they were gone for France, which accordingly proved so, all which, as soon as the wind would permit, I gave Mr. Norris an account of.

For this, and nothing more, Captain Norris was pleased to dismiss me from my command, charging me with breach of orders and neglect of duty. How far his justice extended, I wholly remit to your Lordship's consideration. However, I cannot forbear letting your Lordships understand his partial usage of others, when we gave chase to the great prize, Capt. Roffey being next to her, after she had struck with all sail standing, run her sternhues aboard, when we run nearer ten knocks [?] knots] than nine and broke down his head and cathead, and, as I have been informed, broke several timbers of the *Guernsey's* bow, notwithstanding Mr. Norris's command to the contrary, being within call of him. Mr. Norris was pleased to confine him for about an hour, but afterwards, understanding that the prizes was worth 40,000*l.*, Capt. Roffey was quitted without farther examination. The prizes shared between several of them, which I had not the least part of; neither am I unwilling to acquaint your Lordship that Mr. Norris permitted some to make partitions in their boats and fix them for shallops for fishing and building stages, covering it with the King's sails to make their fish or what stores was expended in such work and fitting out a prize taken by Capt. Norris and laden with fish and sent to the Straits with Capt. Littleton. But to let you Lordship know how far it was in Capt. Norris' power to bias some gentlemen to sacrifice my ruin to his pleasure, and after all to deny me passage to come home in the ship I commanded, where I had some little convenience upon the (*blank*) that two ladies taking passage there, who had been in *Placentia*, exposed me to more misfortunes of being since cast away and saving my life upon a raft, with all those hardships I have since endured, which have hindered me from a more timely application.

This is a true state of my present misfortunes, by which, taken into your Lordship's consideration I may be in hopes to find a favourable redress. Wherefore, relying on your Lordship's

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goodness and generous inclination, I am &c. C. D. *Endorsed* as delivered in this day by Mr. Desborow and then read.

(d¹) 15 March. Order of Capt. Norris to Capt. Desborow to go in search of Ponti. Directs him to make the best of his way to the Bank and then off Cape de Race in discovery of the French men of war lately in Conception, to know if he finds them plying to Placentia or steering to France, and likewise to use his endeavour to intercept anything going or coming to Placentia, and after eight days to make the best of his way to him at St. John's, but in case he gains any intelligence he is immediately to return to him again. Given on board the *Monk* in St. John's harbour the 30th July 1697. *Signed* Jno. Norris.

(e) 17 March 1698-9. Letter from the Commissioners of the Admiralty to the Navy Board. The Commissioners of the Victualling have, by their letter of the 7th inst., sent in a copy of an Account received by them from Capt. Norris, late Commander in Chief of his Majesty's ships at Newfoundland, of several provisions furnished to the ships there, amounting to 1,447*l.* 14*s.*, as also a copy of the valuation of those provisions, as to which the Commissioners say they are not sufficiently authorised to determine, as the provisions were taken out of a prize, and they find the valuation put upon them very extraordinary, copies of which accounts are enclosed. His Majesty, however, having ordered the prizes taken on that expedition to be disposed of among the officers and men employed in it, and it appearing that the provisions were valued and appraised by the Captains, the Commissioners of the Admiralty direct that orders be given to the Commissioners of Victualling to pay for the provisions accordingly, unless they have any other objections, in which case they are to state them. *Signed* H. Priestman, J. Kendall, Jo. Houblon, R. Rich. *Dated* Admiralty Office, 10 Jan. 1697-8. *Endorsed* as received this day.

(e¹) Copy of an Account delivered to the Commissioners of the Victualling by Captain John Norris, Commander in Chief of his Majesty's ships at Newfoundland, the 6th of January 1697-8 for provisions furnished his Majesty's ships in the Newfoundland, for which he demands payment amounting to 1,447*l.* 14*s.* 0¹/₄*d.*

	£	s.	d.
To 27,021 lbs. of bread at 3 <i>d.</i> ⁶ / ₇ of a farthing per lb.	361	17	3 ³ / ₄
„ 50,731 lbs. of flour at 3 <i>d.</i> ⁶ / ₇ of a farthing per lb.	679	8	7 ³ / ₄
„ 821 pieces of beef at 10 <i>d.</i> per piece - -	34	4	2
„ 5,367 pieces of pork at 6 <i>d.</i> per piece - -	134	3	6
„ 21 bushels of peas at 7 <i>s.</i> 6 <i>d.</i> per bushel -	7	17	6
„ 198 bushels 7 gallons of beans at 4 <i>s.</i> 6 <i>d.</i> per bushel - - -	44	14	11 ¹ / ₄
„ 240 lbs. of butter at 6 <i>d.</i> per lb. - -	6	0	0
„ 242 lbs. of cheese at 3 <i>d.</i> per lb. - -	4	0	8
„ 765 gallons of oil at 3 <i>s.</i> 6 <i>d.</i> per gallon - -	133	17	6
„ 6,383 lbs. of fish at 13 <i>s.</i> per cwt. -	41	9	9 ¹ / ₂
	1,447	14	0 ¹ / ₄

Errors excepted.

JNO. NORRIS.

Copy of a paper showed to the Commissioners of the Victualling by Captain Norris, Commander in Chief of his Majesty's ships at Newfoundland, the 6th of January 1697-8 for justification of the prices of provisions charged in his account above,

Pursuant to an Order from Captain John Norris, Commander in Chief of his Majesty's ships in Newfoundland, to us directed bearing date the 23rd July 1697, we whose names are hereunder written have repaired on board the prize ship called the *Two Marianas* in St. John's harbour in Newfoundland and viewed the several provisions on board her and do appraise them to be worth as hereunder mentioned, viz.:—

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Bread and flour, per ewt. gross, thirty shillings.	} English money.
Beef, per barrel, two pounds two shillings.	
Pork, per barrel, three pounds.	
Peas, per bushel, seven shillings sixpence.	
Beans, per bushel, four shillings sixpence.	
Oil, per gallon, three shillings sixpence.	
Butter, 4 cask, from No. 1 to 4, per lb., sixpence.	}

As witness our hands 26th July 1697.

FRAS. DOVE,
JAMS. MIGHELLS,
PETER CRAPP,
JO. CRANBY,
JOS. SIMONS.

A copy. Cha. Michell.

[Referred to in preceding letter.]

(f) 17 March 1698-9. Copy Order of 24 Feb. 1697-8 from the Lords of the Admiralty to the Navy Board for paying Capt. Norris as Captain of a third-rate during the Newfoundland Expedition. *Signed* J. Houblon, J. Kendall, G. Wharton. A copy, J. Burchett. *Endorsed* as received this day.

(g) 17 March 1698-9. Copy Order of 7 March 1697-8 from same to same, for paying Capt. Norris 10s. a day as Commander in Chief of the Newfoundland Squadron. *Signed* H. Priestman, R. Rich, G. Rooke, J. Houblon, J. Kendall, G. Wharton. A copy, J. Burchett. *Endorsed* as received this day.

(h) 21 March 1698-9. Report of Lords Committees appointed to consider of Captain Desborow's Petition, with three Papers, marked A, B, C, Captain Desborow's Petition, and a letter to E. Orford. The Report, dated 18 March 1698, is as follows:—

*Mr. Charles Desborow,** (sworn) gives account of Commodore Norris' Expedition in search of Monsieur Ponti. He says in two cruises they took three prizes, consisting of 700 tons, and at St. John's they fell a plundering them. On the 21st July five French ships appeared off of St. John's, and we heard by prisoners taken that the French had sent under Monsieur Nesmond 15 ships to attack St. John's, which were to rendezvous at Placentia, and afterwards 5,000 men were to come over by land to attack St. John's, and we believed this, and Col. Gibson came on board with his men again. On the 23rd four Englishmen that had been taken prisoners by Ponti made their escape, and informed me that the five ships before-mentioned belonged to Ponti, that most of his men were sick, and that their provisions were short. These four men informed Commodore Norris the same thing, and also that they came from the West Indies, but he would not believe them. During this time Ponti goes into Conception Bay, and sends a boat with Cumberbatch

* Com. Book, 6 March.

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and others to Carbonear, a place under the English Government, to traffic with them, promising that, if they would supply him with provisions, he would pay them, otherwise would destroy them. Cumberbateh gave us notice hereof by letter, and told us that, if we would serve our country. this was the time. Edwards and Shuttleworth, that brought the letter, affirmed the same, but we would not believe them; and Shuttleworth offered us to go aboard Ponty as a spy, and to give us notice; but Norris refused him, whereupon the deponent was sent out on the 26th to discover them, and Capt. Littleton was sent out the same day or the next day to Carbonear, where he pursued a French boat sent from Ponty. The Frenchmen were forced on shore and surrendered themselves to the merchantmen that kept guard on the Island of Carbonear, and they brought 25 of them to Capt. Norris, to whom they owned it was Ponty's fleet, and not Nesmond's, but he would not believe them, but threatened to whip them. While this was doing, the deponent came in and assured them there were five French men of war, and no other ships near them, neither to the northward nor to the offing, that could be supposed to be part of that squadron; but neither the prisoners, Shuttleworth, the Deponent, nor the four Englishmen that had been prisoners, could be believed, and we resolved not to go out to fight them. Then, a Council of War being called, and Col. Gibson being present thereat, did out of his turn say that, though I shall set my hand to the going out, yet I do declare that whoever goes out to fight Ponty is no friend to King William. That at the time Ponty lay before the port we were employed in sharing the prizes, and Capt. Norris' ship had more prize goods in it than he ought to have had, and when we should have gone out to have fought Ponty we harried ourselves in. He says he never knew Norris forward to go out to fight, nor did he see Norris sign the Council of War with his "Yea" for it at the time when the Deponent and others did so. When the Deponent went from the Council (which was not till it was up) Norris had not signed with his "Yea." This was 26 July 1697. The *Portland*, Capt. Littleton's boat, was used as a vessel to catch fish.* He says after this he was sent to look [for] Ponty, and gave an account at his return that Ponty was gone, and that Nesmond was come with 15 men of war, whereupon Norris called a Council of War and broke the Deponent, because he had, as they said, neglected his duty.†

William Essex (sworn) says he rowed in the boat when four Englishmen were taken that told us they had been taken by the French, and had made escape again on shore. Those Frenchmen were five men of war under Ponty, come from Cartagena, who, they said, were weakly manned, and wanted wood and water. He said he was with Capt. Desborow when he carried the said four men on board Capt. Norris, but he knows not whether they

* The notes of this evidence in Com. Book (6 March) contain here the following passage, which is struck through: "The boatswain was confined because he would not deliver the King's stores to the prize left to fish with. Being asked, he knows not whether the stores were left behind by direction of a Council of War. He says he remembers not, but thinks it was by Norris' order."

† The Com. Book adds here: "Col. Gibson says Desborow's Petition is mistaken in 21 June for 21 July, which Mr. Desborow presently mends in his Petition, with their Lordships' leave. Capt. Stapleton being asked, admits the prizes to be 600 or 700 tons."

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had been aboard the French men of war. There were but two Frenchmen aboard the prize, and they said they were so weak they could not spare more; and being asked whether the Englishmen were at liberty in the prize, he says they had nobody to confine them.* [Being asked whether he was examined to this point at the House of Commons heretofore, he said he was.]

Charles Hashfield (sworn) says he was in the boat when these four Englishmen came to us, and they declared they came from Ponti, and that they came from Cartagena, and that the five ships were Ponti's squadron, and that two Frenchmen were put aboard the prize with them, and they made their escape to the shore with the boat. They told us Ponti had but little water and wood aboard, but he knows not whether those four English were aboard the French ships.

The Sea Captains present own that such letter came from Cumberbatch as is above declared by Mr. Desborow.

Alexander Cumberbatch (sworn) says he met with Mr. Edwards and thecox[swain] of the *Eagle* galley in Carbonear, and being asked what account he gave Edwards and Shuttleworth of the weakness of Ponti, more than was in the letter he sent by them to Norris, he says the substance of the account was how weakly they were manned, and how richly they were laden, and that if he had six sloops off Jamaica he would not have doubted but to have taken them. He says he was a prisoner with Ponti, and being asked whether he did not say to the people of Newfoundland that he was at liberty, and that Ponti had given him his ship again, he says he never said so. Ponti sent a guard with him to the shore, and his going thither was to get him provisions and liberty to water, and Ponti took his word for his returning. Being asked what moved him to return again to Ponti, he says one Dilotta, an Englishman, was in the boat with him, and they coming near two fishing boats he told Dilotta he would go aboard them, and going on board one of them he went with it to the shore, where he met with the said Edwards, to whom he told that the five ships were French from Cartagena, and that they had taken his ship from him; whereupon Edwards said there were ten English men of war at St. John's in Newfoundland. The Deponent doubted the truth of it, but Edwards swearing it the Deponent believed it; and he further said there were 10 or 12 sail of English merchantmen in the port, whereupon Deponent desired him that he might give an account of this to them, for fear the men in the fishing-boat should discover to Dilotta the English men of war that were at St. John's. He says he designed to send a letter to Capt. Norris, rather than go himself, for fear the fisher boat should discover to Dilotta that there were so many men of war at St. John's; so then the Deponent resolved to make himself a prisoner again, that it might not be suspected there were any English men of war there. Being asked what rewards he had from the Admiralty when he came out of France, he says the Commissioners of the Admiralty gave him 500*l.* and a medal and chain of 150*l.* value, and he knows not that it was for any other service than the intelligence he had so given to Commodore Norris, and he says his mate had 50*l.* reward and a medal of 30*l.*

* The portion following in square brackets is struck through here, and also in Com. Book.

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of them. [Noted in margin : The Admiralty Order of 3 December to be read here.] Being asked whether he had any account of the English squadron at Newfoundland before he came on shore, he says : We had a jealousy of six men of war being there by Mr. Hunt coming from Barbados to Newfoundland, but he was not sure of it till Mr. Edwards confirmed it to him at Carbonear. If he had been sure, he would have proposed going into St. John's and not to Conception Bay. Being asked whether Ponti's squadron was not first off Placentia, he says they were, and they went not in there because the weather was foggy, and they had lost the land, so the first land they fell into after was off of St. John's. Being asked whether, while they were off Placentia, there was any possibility of going in, he says they designed to go in, but the weather proved foggy, and they were off and on two or three times, but it still proved foggy, and they could not deal with that shore. He says he was on board the *Hawk*, an English merchantman in Carbonear, to desire the Commander thereof to send for the rest of the Commanders of the merchantmen there, in order to give an account to the Commodore at St. John's of Ponti's being there with five ships, but he had none of their assistance, except Mr. Shuttleworth's and Mr. Edwards'; so he sent his letter away by them, and returned aboard for the better carrying on his design.

Thomas Farmer (sworn) says he was chief mate of the *Hawk*, and that the men belonging thereto, with others, were upon Carbonear Island, and seeing a French boat near, they firing at her, she rowed in, and Robert Browning, the chief of the men on the Island, ordered one of their officers to come out of the boat, where were about 23 men, and then he went into the boat, and the Frenchman rowed him aboard the *Hawk*. The same night, not thinking ourselves safe, we run out and got into St. John's with those Frenchmen aboard. He says Capt. Littleton, commander of the *Portland*, came aboard the *Hawk* immediately after the Frenchmen were taken, and went round with us to St. John's, where his ship lay. He says he took them to be Frenchmen, but did not understand what they said. Being asked what became of their boat and arms, he says Capt. Littleton's Lieutenant came for them as soon as we came into St. John's.

The Sea Captains present being asked whether on the 28th July Capt. Desborow came not into them, while they were at a Council of War ?

Col. Gibson says he did so, and he then asking Capt. Littleton what account the said Desborow had given them, he said he was ashamed of him ; he had not been within 5 or 6 miles or leagues of the French.

Capt. Desborow, in answer thereto, says that Capt. Littleton was in St. John's port when he, Desborow, was upon his duty in discovering Ponti.

Thomas Farmer (sworn) being asked what day Capt. Littleton came into St. John's, He says it was, he thinks, on the 27th July, about 10 in the morning.

Col. Gibson says he believes it was so.

Alexander Cumberbatch (sworn) says that on the 28th July (as he believes it was) he saw a frigate-built ship of 36 guns, which he took for English.

The Sea Captains, being asked why no other ship was sent out, if Desborow could not be believed, They say his ship was out and

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clean, and none other was so, nor could get out. Being asked whether they do allow Capt. Desborow gave them an account that there were five French men of war,

Capt. Stapleton said he believes he did so; he said they had a flag, but he could not tell them what sort of flag it was.

John Bayley (sworn), being asked what goods were aboard *Capt. Stapleton*, when Mr. Norris had account of *Ponti*, He says several bales of linen and woollen, brandy and wine, haberdashery ware and druggets were aboard him. He says he was quartered in the powder room, and there were several quantities of brandy and wine stored there, and some bales of linen and woollen. Being asked whether the Purser's provisions were removed out of their proper place, he says they were removed betwixt decks and abaft by the main capstans, that the prize goods might be stored in the fish room. He says there were about 24 or 25 large jars of oil and other provisions removed to make room for the prize goods, and that there were goods in the steerage, but he remembers not the quantity, and that the bales lay between the guns and before the cabin door, and that they lay there from the 21st to the 28th July. He says the ship was not in a capacity to go to sea all the time *Ponti* lay there, for we had taken our chains and topmasts, to make a boom to keep the enemy out, as was thought, and they continued there all the time *Ponti* was thereabouts and a fortnight after.

To this, *Capt. Stapleton* said he was then but second Captain of the ship. *Capt. Norris* was the first Captain.

Roger Wittered (sworn) being asked whether the *Monk* had not several prize goods aboard, says, we cleared the fish-room of all the provisions, and stowed it with several casks of wine and bales of goods, and on the 21st of July, when *Ponti* appeared at the mouth of the harbour, our ship was pestered so with goods that she was not fit to go out, and we took the fishes, top-masts and chains, to make a boom to keep *Ponti* out; most of the wine in the fish-room belonged to *Capt. Stapleton*.

George Trout (sworn), being asked the same question, says the sail-room in the *Monk* was stored with prize goods, oil and other provisions, and the sails were put in the hold, hoisted out of the fish-room between decks, and prize goods were put in the fish-room in their place, and there were casks of water in the hold when the sails were thrown in, and no care taken of them, and when they came out there were defects in them.

William Essex (sworn), being asked the same question, says he has several times seen goods between the guns on the *Monk*.

John Ram (sworn), being asked the same question, says the *Monk* was much pestered with goods when *Ponti* was there, and the *David* was sent to make a boom with the fishes and masts.

*George Trout** (sworn) says he kept the boatswain's accounts aboard the *Monk*, and that *Capt. Stapleton* and *Capt. Norris* commanded *Jeffery Sims*, the boatswain there, to send the stores on the said *Monk*, as cordage, tar and canvas, on board the prize called *Bullet*, and because he would not do it they confined him to his cabin, and took the key of the store-room from him and gave it the next morning to the yeoman of the store-room, and ordered him to deliver such rigging as they called for; whereupon the boatswain desired me

* Com. Book, 7 March.

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to keep an account of the things they commanded from him; which I did, and afterwards delivered it to the boatswain, who died in October following, and the yeoman took the said account into his hands, which account Capt. Stapleton (as the yeoman told me) desired him not to show at the House of Commons. The particulars therein were a coil of 3 quarters, a coil of $1\frac{1}{2}$ inch, 44 fathom of 3 inch, half a barrel of tar, 8 or 10 blocks, 36 yards of canvas. A 5-inch hawser was also conveyed out of the *Monk*, but he knows not whether it was sent aboard the prize; 32 fathoms of 2-inch rope was likewise sent aboard the prize. A spree-sail topsail was sent on shore to cover the Commodore's log-house, and afterwards, on the 11th October, it was expended on the Banks of Newfoundland as blown out of the bolt rope. These stores, he says, were sent aboard the prize and charged as expended aboard the *Monk* for the King's use, and afterwards we wanted rigging so much that we were forced to unreeve our tackle-falls to make lanyards for our lower shrouds, and our mizen top gallant back sails to make lanyards for our back shrouds.

John Bayley (sworn) says he belonged to the powder-room in the *Monk*, and he saw several stores carried out of her aboard the *Bullet* prize, and he knows not that they were ever returned, and the boatswain said it was by Capt. Stapleton's and Capt. Norris' order. He says the *Bullet* was hauled ashore and cleaned by the *Monk's* men. The particulars of the stores he can give no account of. He says several stages were refitted, and several sails were used to cover them and were very much abused and made unfit to put to a yard, and that several boats and men were employed in fishing.

George Trout (sworn) says one foresail was taken out of the *Monk* to cover a stage, and it was much abused and rotten in several places, and sails were also taken out of other ships to cover stages, as the *Portland* stage and the *Monk* stage.

William Essex (sworn), says several stages, as the *Monk* stage, the *Portland* stage and the *Old Lion* were covered with the King's sails. He knew them to be so by a blue thread, which always goes through the King's sails. He supposes the fish were taken for the benefit of the Captains, for they were sent aboard the *Bullet* when she went away.

William Robinson (sworn), Master of the *Crown*, being asked whether the *Bullet* prize was not under his convoy, says she was not, nor did he ever see her in Portugal.

George Whitred (sworn), says half a barrel of tar was taken out of the *Monk*, with several other stores, and put aboard the *Bullet* prize.

Capt. Charles Desborow, being asked whether he ever made application to the Admiralty, or complained there of his ill-usage from Commodore Norris, says he waited on the Earl of Orford, but he did not see him, and that he spoke to Sir Robert Rich, and he answered that, if Norris had done him any wrong, he would answer it. He says he never petitioned the Admiralty at the Office, but he wrote to my Lord Orford and complained of his hard usage from Commodore Norris. Being asked why he did not apply to the Admiralty, he says: Because I could not, though I endeavoured, have an opportunity of waiting on my Lord Orford, because I afterwards gave his Lordship an account by letter of my hard usage, and my Lord Robert

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Russell told me he delivered the letter to his Lordship; because Sir Robert Rich answered me as above; because divers have given long attendances there; because of the partiality of the Admiralty to several persons; because several have been tried by court martials and had been acquitted, being the sentence of the court martial that they had done their duty, yet their pay had been stopped by the Admiralty, and the men not knowing for what, whereupon some of them petitioned the House of Commons the last year, and others that have been tried by a court-martial; and it was the sentence of the Court to render these men for ever incapable of serving the King at sea, and fined their wages for their disservice, and that for cowardice, yet it has been the pleasure of the Admiralty Board not only to pay them the wages muled from them, but in a short time have restored them to better ships than they ever commanded before; and he refers to the proof of the payment of their wages to the books in the Navy Office. He instanced Wayman and Piccard. He says he thinks he read part of the said letter to the Lord Robert Russell, but is not positive.*

Henry Gibbs says he was aboard the *Unity* under Capt. Clarke, and when Pontî's ships arrived in Conception Bay our ships in St. John's were under a great consternation, and our Commander, Capt. Clarke, said: "I wish all our goods were out of our ship, and I would assist in fighting the Frenchmen;" whereupon I said they had better leave some of their sick men and take men out of our merchant-men; to which Capt. Stapleton replied, "You are a fool, and you know not what you say." He says he has been on board the *Guernsey* and *Lion*, and he bought out of the *Guernsey* an hogshhead of wine, and all the country went aboard the *Monk* and the *Guernsey* and bought. He says our Commander bought some wine. He knows nothing of the stages, but he has seen the *Portland* boat sometimes fishing, and he knows there were three booms put over the harbour mouth, and they would have had our chains, and he saw them clear their forecastles of their cask at the time when Nesmond came. He says he never saw any preparation made to fight Pontî, as he could remember, save that there was a Council called. He says he was also on board the *Monk*, and he saw prize goods there, and he remembers not whether the topsails were loose at the time Pontî was there.

William Essex (sworn) says that while Pontî was there the sails in the *Mary* galley were bent and unbent, and so were the sails of all our men of war, and we transported the *Mary* galley from the south side to the north side, after she came off of the careen, and brought into a line of battle. This, he says, was while Mr. Desborow was Captain of her. We came off of the careen on

* The Minutes in Com. Book (7 March) read here as follows (before Gibbs's evidence): "Mr. Desborow offers a copy of a letter, which he sent by the Lord Robert Russell to the E. Orford, which is read [Annex (d) above]. He says he thinks he read part of the letter to the Lord Robert Russell, but is not positive. Col. Gibson and the other officers desiring copies of the notes taken and of the said letter, it was ordered accordingly. They withdraw. After some time, they are called in and the officers are told that the Lieutenant of the *Monk*, whom they desired to have sworn, is not allowed to be so. George Trout (sworn) (Lieut. Hardy being proposed by the officers to be a witness), says that the said Lieutenant had six soldiers' shares of the prize taken, and that he saw the soldiers carry them off for him, as they said."

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Tuesday afternoon, and were ready to sail the Saturday following.*

Capt. Joseph Stephens† (sworn) being asked whether the *Bullet* prize sailed, says she sailed for Lisbon in Portugal. She was laden with fish and was there sold; but he knows not whether she took in any prize goods at St. John's. He says boats were employed there by the men of war in fishing, but he knows not on whose account, and he bought several quantities of the prize goods at St. John's of the Lieutenants, and he bought most of them of Lieut. Crofts, who was under Capt. Roffey in the *Guernsey*, as linen, stockings to the value of about 30*l.*, and he bought wine and brandy of Capt. Littleton to the value of 40*l.* He says there was a chain and boom across the harbour, and he had a boom there of his own, and he had an order from Commodore Norris for it.

John Crofts says he belonged to the *Monk*, and he was discharged out of her into the *Portland* the night before the Fleet left St. John's. He says the Purser's goods were hoisted up, as casks and jars of oil, and were stowed between decks, and prize goods, as bales of cloth and casks, were put down in their room, and several casks of wine and brandy were in the steerage at the time Pontilay before the port, and they could then see his ships before the harbour's mouth. He says the *Bullet* was sent under the convoy of Capt. Littleton to Portugal, where she was sold, and the *Portland's* men sailed her thither. Some of them ran away after she was sold, and some of them returned to the *Portland*.

Henry Gibbs being asked at what time the sails of the men of war were unbent, he said it was on Thursday, the 22nd of July 1697. Then they got their spricell yards along ships and unbent all or most of their sails, and were bringing on board their water cask. Being asked what time any preparation was made for going to sea or making clean their ships, he said the same 22nd July our men of war hauled out into line of battle against the harbour's mouth in the harbour, with springs out abaft to heave their sides up against the harbour's mouth, and the *Bonadventure Merchant* man of war was hauled the outermost ship to the south-eastward, and the booms were hauled over the next day. He thinks they were hauled over the same day, but he is not sure; and on the 25th he saw some ships upon the heel, viz. some of the fireships, and he thinks the *Dunnage* [Dunwich], and on the 24th, at 4 in the morning, he saw the Commodore and the rest of the men of war brought to their sails, and held two Councils of War, as the Deponent supposed, by firing his guns and putting abroad

* The Com. Book here adds as follows: "*Col. Gibson* desires leave to cross-examine the witnesses already examined, which was ordered accordingly. *Capt. Desborow* desiring the lines of battle may be produced that Norris gave to the men-of-war, while Pontilay before the port, the *Sea Captains* undertook to do the same. Ordered that *John Crofts* and *Capt. Stephens* attend on Thursday next for Mr. Desborow, and he sworn in the interim. Ordered that the State of the Fleet, with the Papers relating thereto, delivered in this day from the Admiralty, be considered on Thursday next. Ordered that *Lieut. Symonds*, *Lieut. Hardy*, *Capt. Masterton*, *Capt. Martin*, *Capt. Richards* and *Gabriel* attend on Wednesday next, and in the meantime attend to be sworn. Ordered that *Richard Herd*, *Lieut. Crouch*, *John Brown*, *Allen Knight*, and *Mathias Waller* attend on Wednesday next, and in the meantime attend at the Bar to be sworn." Com. Book, 7 March.

† Com. Book, 9 March.

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his colours. Being asked, whether at the time they bent their sails any boom was taken from the harbour's mouth, he says he knows nothing of it, but the booms were hauled over again when the other French fleet came. [*Mr. Desborow* being asked, whether he has any more to say, says, No. They withdraw. Com. Book.]

[15 March. The persons attending are called in. *Col. Gibson* and *Capt. Stapleton* desiring they may cross-examine *Mr. Desborow's* witnesses, they begin with *William Essex*. Com. Book.] *William Essex** being asked where they took the four men mentioned in his former Deposition, says: We took them in at St. John's, at the north side of the harbour. They told us they were taken by the French, and they escaped with the boat, and he is sure they were four, and that they took them into the boat together, but he knows not whether they came all together to St. John's.

Mr. Charles Desborow says he brought the said four men aboard the *Monk*, he thinks on the 23rd July.

Joseph Stephens (sworn) says he was aboard the *Monk*, and seeing 3 or 4 strangers there, and enquiring of the officers who they were, they told him they had been taken by *Ponti* off the harbour's mouth on the 22nd or 23rd July, and that the French had put two or three men aboard of them, and a fog happening had separated them from the French fleet, and they came away in their own ship's boat; and the two or three Frenchmen that were aboard their ship, did not hinder them. They could not speak French themselves, nor could the French speak English, but as far as they could understand by their meanings, they were very poorly manned and wanted provisions; but he knows not what the signs were. Being asked whether they had not the use of their arms, he says he knows not.

Alexander Cumberbatch (sworn). Asked what he knows in relation to the two men put on board the prize after taken, he says that by the two Englishmen that were aboard *Ponti* he was informed there were two Frenchmen put on board, and that they left four English, and that the mate of the merchantman was sick at that time, and he was one of the four English prisoners. The fog came on, and he knows not what became of the prize. Being asked when he was taken by *Ponti*, he says he is not provided for that question, but he thinks it was on the 14th June; it was after Admiral *Nevill* came down upon *Ponti*. Being asked what number of guns *Ponti* had on board mounted, he says he had between 60 and 80, and that some of the guns were struck down after he was aboard, and one or two *Petraroes* [patareros] were mounted. Being asked, whether he can speak French, he says, No, neither does he know where the rendezvous was to be, after they parted with *Nevill*. Being asked what number of men were aboard *Ponti*, he says he believes there were about 280, sick and well. Being asked whether he had liberty to go in the ship where he pleased, he says, No. Being asked whether they came by accident to Newfoundland, he says it was designed to come thither. Being asked to what port it was designed, he answered: to *Placentia*, as far as he could understand by the two English gentlemen,

* Noted in margin: Cross-examinations. Com. Book, 15 March.

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Dilotta and Revee, that were aboard. Being asked when they first made Newfoundland, he says he can give an account of it, but he has it not about him. Being asked, who was their pilot, he says, a Frenchman, whose name he knows not, and he says he, the deponent, was never before in Newfoundland. Being asked, how many days they were between making Placentia the first time and their coming to St. John's, he says he cannot be positive; he knows not. Being asked what prizes Ponti took between making Placentia and coming into Conception Bay, he says he took two prizes. Hunt was commander of one of them, but he knows not the other, but as far as he understood, she was a pink belonging to Topsham. He put between 10 and 13 men on board, but he knows not what became of her, she was burthen between 80 and 100. She was taken by Ponti's own ship. And he says he is now positive the Master's name was Passmore, by what he could understand by writings he saw, and the writings were a letter. He says he never saw Passmore aboard Ponti. He saw the writings in the hands of the two Englishmen, and that one of them had them aboard of the pink, to the best of his knowledge. Being asked whether the two gentlemen were taken aboard the pink, or how they came to be absent from Ponti aboard her, he says, to the best of his knowledge, one of them was sent as a linguister or interpreter. Being asked whether he saw any other merchant ships between Placentia and Conception Bay, he says, to the best of his knowledge he saw none. Being asked whether Ponti called a Council of War after taking Passmore, he says he remembers none, but there was a Consultation. Being asked whence Passmore came with his ship, he says he was informed he came from St. John's. Being asked whether they had any account of St. John's by any taken in the pink, he says there was no man aboard the pink when she was taken, as the Englishmen told him, neither had they any account of St. John's by any other ship, as he understood. Being asked whether he knows whither Passmore and his men went after their quitting the pink, or whether he ever heard they were in Newfoundland, he says, No. Being asked how far Ponti's ship was from the shore when the pink was taken, he says it might be 3 or 4 leagues from the shore, and he saw two boats at her stern after she was taken, and they seemed to him as if they belonged to the ship. This, he thinks, was on the 20th or 21st July, and the two boats were at the stern of the ship when Ponti's boat took her. Being asked how many of the 280 men in Ponti's ship were sick, he said, to the best of his knowledge 80 of them were not fit for service. Being asked whether Ponti came out of choice or out of necessity to Newfoundland, he says he came out of necessity. Being asked whether, in case of separation in the West Indies, Ponti's orders were not to rendezvous at St. Peter's Isles or Placentia, he says he knows nothing of the rendezvous at either place, but after being through the Gulf, they sent away a frigate to Petty Guavas to know what was become of the remainder of the fleet.

Capt. Charles Desborow (sworn) being asked the same question, says he knows nothing of the rendezvous, but he has heard some of the 25 prisoners say somewhat of it on the 28th July. Being asked whether he was on board *Capt. Norris* on the 22nd

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July at the Consultation, he says he was. Being asked on what subject they were that day, and what reason Col. Gibson gave for his regiment coming on board, he says, to the best of his remembrance the substance of the matter, when Ponti's five ships appeared before the harbour, was that some prisoners we had taken gave us an account that Monsieur Nesmond was coming from France to Placentia with a squadron of men of war, and that there were 5,000 Indians and French that were to attack St. John's. Being asked whether at that consultation he was not for the landmen coming on board, he says he never taxed Col. Gibson or his men with cowardice, but he opposed their coming on board, and he says that though he be of a different opinion to the majority at a Consultation, yet he must sign with them.*

William Essex (sworn), being asked by whom and by whose orders were the sails used, and from whom brought, which covered the stages, he says he knows not by whose order, but he knows one was carried from the *Monk* to cover the *Monk's* stage. He knows this by reason the *Monk's* men were covering the stage, and they called it the *Monk's* stage, and he knew them to be the King's sails by the blue thread, and he saw the *Portland* and *Lion* stages, as they were called, and *Monk* stage was, to the best of his knowledge, between the *Portland's* and the *Lion's* stage in the harbour.

John Bayley (sworn) being asked where the *Monk's* stage was, says he knows not, but he is certain there was one, for he has heard the men say so.

Capt. Charles Desborow (sworn) says all the stages were on the north side of the harbour, and he has heard, when he has gone ashore, that one of them was the *Monk's* stage.

Capt. Robert Masterton (sworn) being asked whether there was, in fact, a *Monk's* stage, says he knew of none, nor never heard of any such.

Capt. Stephen Martin (sworn) being asked the same question, says he knows of none but where the boats belonging to the ships usually landed. We used to call the stage by the name of the ship the boats belonged to. Being asked whether the *Mary* galley or *Dunnage* or other ships had stages called by their names, he says he has heard stages called by the names of several ships, but he cannot be particular, *Monk* and *Lion* particularly, but whether they were their stages, he knows not. He remembers not that the *Crown* or *Bonadventure* had stages, but he has heard the *Portland* had.

Robert Masterton (sworn) says he never heard of the *Monk* or *Mary* galley stage, but he has heard of the *Lion* and *Portland* stages. Being asked whether he has seen any fish on those stages, he says he knows of none.

Capt. Stephen Martin (sworn) being asked the same question, says he cannot be positive.

William Crouch (sworn) being asked whether he knew of any stage called the *Monk* stage, says he never heard of any. Being asked whether he ever knew of a stage called the *Suffolk* hagboat stage, he says he believes the stage called the *Portland*

* The MS. Min. have here a cancelled entry as follows: "The Sea Captains are asked whether they or any of them or Capt. Desborow were against Col. Gibson's regiment coming on board."

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stage was sometimes called by that name, and he has seen fish making on the *Lion* stage, and the fish that were taken for the refreshment of our men were carried to that stage for their use. Being asked whether any fish was carried aboard the *Bullet* prize, he says some of the fish out of the Spanish ship and some taken in the harbour was sent aboard the *Bullet*.

Richard Herd (sworn) being asked concerning the stages, says he neither knows nor believes that there was such a stage as the *Monk's* stage, but there was a stage called the *Lion* stage, which was built before we came there, but was called so because our men landed there. Being asked whether that stage was broken down or burnt before he came there, he says it was so by the French, but two or three of our people and myself repaired it in one day. He says some fish we had taken, and being more than we could use, were split upon the stage, and our men, and not Capt. Dove, had them, and he knows not that it or any fish taken in the harbour was sent aboard the *Bullet* prize.

James Petre (sworn) being asked whether he knew that Capt. Dove sold anyone fish, says he does not know, nor did he ever hear that he did so, nor never heard he put any on board the *Bullet*, or that any fish taken in the harbour was sent aboard the *Bullet*.

Henry Gibbs (sworn)* being asked at what time it was that Capt. Stapleton said, "You are a fool," (as is expressed in the former Deposition) says it was on the 22nd or 23rd July, to the best of his judgment.

John Bayley (sworn) being asked whether the goods he has sworn were in the powder-room were Capt. Stapleton's, says the gunner said they belonged to the superior officers, and they were stowed there by their orders. Being asked in how long time could the ship have been cleared of the goods you say pestered it, he says he cannot be positive, but if the goods were to have been staved and thrown overboard, it might have been in a short time. Being asked how long it might have been, if they had been [ordered] to have been put in the hold, he says he cannot be positive, but he will take time enough; it might have been in two days' time.

Capt. Robert Masterton (sworn) being asked whether he did at any time when *Ponti* was upon the coast see the *Monk* not clear enough to have gone out to fight the enemy, he says from the 21st to 28th July he believes she might have been in a readiness in half an hour to go out to fight the enemy, and she was so clear on the 22nd, that she could run out any gun. He says he was in the gun-room and between decks, but not in the powder-room. Being asked if the top-chains, davits and fishes were made use of to make a boom when *Ponti* was there, he says there might be some top-masts, but neither davits nor chains.

Capt. Stephen Martin (sworn) being asked the same question, says he has been often aboard the *Monk*, and she was always in such order that she might have been gotten ready in an hour's time to go out, and he has been between decks and the gun-room, and never saw anything there to hinder her fighting. He says he never was in the powder-room or the hold, but has been

* The Com. Book has here the following cancelled entry: "Having before sworn that all the country, to the best of his knowledge, went aboard the *Lion* and *Guernsey*."

twice or thrice between decks (one of the times was when Ponty was there), and he has been in the cabin, and he never saw any goods in the steerage save two or three flour casks, but he has seen goods shared on the quarter-deck. Being asked whether he has not seen long boats loaded with wine, brandy and prize goods, he says he has seen them with provisions.

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Lieut. Alexander Hardy (sworn) being asked whether the *Monk*, when Ponty was on the coast, was clear enough to have gone out, he says, according to the best of his judgment, he has always seen the ship *Monk* in the same condition before and after Ponty was there.

Thomas Symonds (sworn) being asked the same question, says he lay in the gun-room, and they would not suffer his trunk to be there, but it was carried down into the hold, and he never saw the ship pestered. This was when Ponty appeared with the five ships.

Capt. Michael Richards (sworn) being asked the same question, says he went out with Capt. Norris and came home with him, and he had several trunks and a scrutoir in the ship, and in the time Ponty was there they were put into the hold, and he did not then see the ship pestered with any goods, and he, being an officer of the Ordnance, offered Capt. Norris that, if he had any goods of his own that he would have removed aboard his store-ships, they should be there, but he said they were as safe where they were.

John Bayley (sworn) being asked at what time the prize called the *Good Heart* was broken up, says it was about the 14th July. Being asked when the *Bullet* broke bulk, he says it was some considerable time before, perhaps a fortnight or three weeks. Being asked who broke open the *Bullet*, he says he supposes the *Monk's* men.*

Thomas Dumwright† (sworn), being asked, [Noted in margin: Further Examinations on Mr. Desborow's part] whether the *Monk* was not pestered with wine and other goods at the time Ponty's ship lay before St. John's harbour, particularly whether the powder-room was so, he says he was yeoman of the powder-room in her, and he knows the powder-room was pestered with wine, brandy, soap, and bales of goods. He says he means they lay in our way, that we could not come at wadding, our tackle or eordage. Being asked whether it was the powder-room or the store-room over the powder-room, he says it was in the fore store-room, and we had a small bale of goods upon the powder cask below. Being asked whether the powder-room door was wide enough to let in the bale without cutting it, he says it was

* The Com. Book adds here as follows: "He produces an Affidavit of a Frenchman, which was not read. *Capt. Stapleton* proposing to proceed as to embezzlements, and *Capt. Desborow* desiring to have other witnesses sworn, they withdraw. It being proposed that *Capt. Dove's* witnesses, being poor men, may be excused further attendance, it was *Ordered* accordingly. *Ordered* that *Capt. Tho. Cleasby* be sworn to-morrow and attend at the next meeting. The matter of the embezzlements to be examined at the next meeting. They are called in again and told that they may bring further witnesses as to pestering the ships and the embezzlement. *Ordered* that *Francis Milborn, Thomas Dumwright, John Child, Thomas Gardner, Francis Walker, John Howell* and *Joseph Phelps* attend to-morrow to be sworn, in order to be examined on the 17th. Com. Book 15 March."

† Com. Book 17 March.

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so, but the bitt pin was cut to let in brandy and wine. This was the door of the upper powder-room. Being asked whether there was not powder filled in those places where the wine and brandy were, he says there was a chest of cartridges of ten rounds filled with powder, and those ten rounds might contain about 24 barrels. Being asked whether the ship was at that time pestered between decks, he says he knows not that it was so at that time, but before and afterwards it was. Being asked what powder was sent with Mr. Bass, Lieutenant of the *Monk*, to the nor'ward in the long boat, he says two barrels, which returned not, and it was English powder in English barrels.

Joseph Phelps (sworn) being asked concerning the *Monk's* being pestered with goods, says we were very full of casks and jars abaft the main-mast. Being asked whether the top-masts, fishes, top-chains and a cable were not, at the time *Ponti* lay before St. John's, carried to the harbour's mouth to make a boom, and whether, for want of them, the barge could not be hoisted in, he says, We could not hoist in the barge.

James Penry (sworn) } Being asked the same question con-
John Howell (sworn) } concerning the *Monk's* being pestered,
Francis Milborn (sworn) } answered to the same purpose Phelps
 had done, and one of them [the last of them. Com. Book.] said
Ponti lay two days before the harbour.

Joseph Phelps (sworn) being asked in what time the *Monk* might then have been cleared, says he supposes in 30 hours.

Capt. Desborow (sworn) being asked how long his ship was in clearing, says he thinks he was, with the assistance of the *Lyme* men, from the 13th to the 26th. Being asked how long he was in getting his guns and ballast out and in, he says, six days.

Thomas Gardner (sworn) being asked what he knows of the powder Lieut. Bass had with him in the long boat, says the two barrels were sold at Carbonear, and he was then in the long boat with him.

John Bayley (sworn) being asked whether he knew anything of the delivery of this powder out of the powder-room, says he was at the delivery of it to some of the men that went in the long boat. The gunner and the yeoman ordered him to assist them. Being asked whether Capt. Stapleton ordered it, he says he knows nothing of it.

Joseph Phelps (sworn) being asked what canvas and other stores he carried from the *Monk* on board the *Bullet* prize, says, some Hollands Duck and Noiell's Canvas, made up in two small rolls. Being asked if they were the King's stores, he says he knows not, but they came out of the store-room. Being asked whether he was not assisting in making up the boatswain's account, wherein this canvas and other things were charged on the Account Books, as though they had been used aboard the ship, he says he helped to make up the accounts, and they were charged as expended in the King's service for mending the courses, being rat-eaten, and after the boatswain died the yeoman desired the Deponent to set it down, for he himself could not write. Being asked how he came to set them down as so expended, he says he did it by the yeoman's order.*

* The Com. Book adds here the following question, afterwards cancelled: " Know you that the boatswain was confined for not delivering stores? "

[*Noted in margin: Capt. Stapleton's Account of Stores to be read here.*] 1698-9.

George Trout (sworn) being asked how he knew that Capt. Norris and Capt. Stapleton commanded stores of the boatswain, says he heard them. Being asked whether of them gave those orders, he says both of them gave the orders. Being asked whether the boatswain's accounts remained unsigned by Capt. Stapleton for several months, while you lay in Newfoundland, and for how long time, he says they remained unsigned at the time the stores were sent away, and it was longer than two months that they remained unsigned. Being asked whether his accounts were all signed before he died, he says they were not. Being asked by whom, and by whose order the fore-sail was taken out of the *Monk*, he says he knows not by whose order it was, but he handed it out, and knows not whether it was to cover a stage, but he saw it afterwards on a stage. Being asked where the *Monk's* stage stood, he says the stage called the *Monk's* stage stood in St. John's harbour.

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Capt. Thomas Cleasby (sworn) [*Noted in margin: Examinations on the side of the Sea Captains*], says that upon his return from his cruise from the northward, he met with Capt. Desborow in St. John's harbour, where the said Desborow told him that the question having been put and carried at a Consultation that they should not fight Ponty, Commodore Norris was so much concerned, that he saw the tears run down his cheeks for vexation. Being asked whether he knew the *Monk's* stage, he says he never knew any such stage. Being asked what intelligence he had of Nesmond's squadron, when he was sent to the bottom of Trinity bay, he says, I sent two men from thence to view Placentia harbour, and they brought me account there were only merchant ships there, but in my return I took an English man and woman who had lived with the French the fishing season, who told me that about 15 or 18 French men of war had wooded and watered not far from thence, and were sailed about 18 or 20 days before; and I think it was about the 5th or 6th of August that I had this intelligence. Being asked what intelligence he sent by letter to the fleet at St. John's, he says he gave intelligence that two sail of Ponty's squadron were arrived at Placentia, and had joined Monsieur Nesmond. Being asked what time it was that the above-mentioned merchant-men were at Placentia, and no men of war there, he says he cannot swear to the time. [*Noted in margin: The Consultation of 24 July and the Court-Martial of 11 August 1697 and Norris's Instructions to be read here, and Col. Dore's Papers*].

*Capt Charles Desborow** (sworn) says that a day or two or three after he had delivered the above-mentioned letter to the Lord Robert Russell, he waited on his Lordship to know my Lord Orford's answer to it, and his Lordship told him he had delivered it to the Lord Orford, and that he read part of it, and put it in his pocket, and further told me that his Lordship said I was in the wrong of it, and that if Norris had done anything he could answer it, or to that effect. That I further told his Lordship that I was now to return his Lordship my humble thanks for all the favours he had done me, and that I begged one more, which was to give my duty to my

* Com. Book 18 March.

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Lord Orford, and that I hoped he would not take it amiss, since his Lordship would not adhere to my complaint, if I did complain in another place; and my Lord Robert's answer was that he could not take it ill if I did so, or to that effect. He says it was by Sir William Ellis' knowledge that he wrote this letter, and Sir William Ellis had either the letter itself or a copy of it in his hands a week before I delivered it to the Lord Robert Russell. He says he attended rather more than two months in endeavouring to speak with my Lord Orford, and that he did likewise in that time wait on Sir Robert Rich and had some talk with him about our Newfoundland expedition, but when the Deponent came to talk of Capt. Norris' actions he would have no longer patience, but left the room, telling the Deponent he had other business.*

(h¹) Papers A, viz. (1) Copy Letter as follows:—

Admiralty Office,
5th November 1697.

Gentlemen—Whereas it appears to us that Mr. Alexander Cumberbatch, master of a small ship which was taken by Monsieur Ponti and brought by him to Newfoundland, did, when sent on shore there to assist in procuring water and provisions for the squadron under the command of the said Mons. Ponti, write a letter to Capt. Norris, who was then at Newfoundland with a squadron of his Majesty's ships, giving him an account of the condition of the aforesaid French ships under command of Mons. Ponti, which letter came to his hands, and afterwards returned to the French squadron according to the promise he had made, whereby the said Cumberbatch did put his life in great danger, if the French had received an account that he had written the said letter. And whereas we think it fit that the said Alexander Cumberbatch should receive all fitting encouragement for the zeal he showed by this action to his Majesty's service: We do therefore hereby desire and direct you forthwith to sign a bill on the Treasurer of his Majesty's Navy for paying unto Thomas Neale, Esq., Master of his Majesty's Mint, 150*l.*, for enabling him to provide a medal and chain of that value for the said Alexander Cumberbatch, the said moneys to be assigned for payment out of the moneys which are or shall be received by the Treasurer of the Navy for Tenths of Prizes appointed by a late Act of Parliament for medals and other rewards for officers, mariners and seamen in his Majesty's service at sea. We are, yours, &c. H. Priestman; R. Rich; J. Kendall.

(2) Copy Letter as follows:—

Admiralty Office,
6th December 1697.

Gentlemen—Whereas we did some time since direct you to sign a Bill on the Treasurer of the Navy for paying to the Master of his Majesty's Mint the sum of 150*l.*, in order to his providing a chain and medal of that value for Mr. Alexander Cumberbatch, for the good service done by him when sent on shore at Newfoundland by Mons. Ponti, to whom he was prisoner, in writing a letter to Captain Norris, who commanded his Majesty's ships there, and giving him an account of the condition of the French

* The Com. Book here contains the following: "The Clerk is directed to make a copy of the Notes taken against Tuesday. *Ordered* that the Notes taken at the Committee be reported."

squadron at that place: And whereas we do think that the said Mr. Cumberbatch does deserve a greater reward than the aforesaid medal and chain, in regard he ran the hazard of his life, had it been made known to the French that he wrote such a letter: We do therefore hereby desire and direct you forthwith to sign a bill on the Treasurer of his Majesty's Navy for paying unto the aforesaid Alexander Cumberbatch the sum of 500*l.* out of the moneys in his hands for the Tenths of Prizes settled by Act of Parliament for rewards, medals, &c. And whereas Ralph Beames, who was mate to the said Cumberbatch when taken by the French, was consulted and advised within this matter and kept the same secret; you are in like manner as before, to sign a bill on the Treasurer of the Navy for paying to him the sum of 50*l.*, in addition to the late medal ordered him, as a further reward to him for his service herein. We are, yours, &c.,
H. Priestman; R. Rich; J. Houblon; J. Kendall.

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(h²) Paper B, entitled "Particulars of Stores sworn by Trout to be sent on board the *Bullet* prize by Capt. Norris and Capt. Stapleton," viz.:—

- A coil of $\frac{3}{4}$ -inch rope.
- A coil of $1\frac{1}{2}$ -inch rope.
- A 5-inch hawser.
- A spritsail topsail.

The coils of $1\frac{1}{2}$ and $\frac{3}{4}$ -inch rope was expended in July before we came into St. John's harbour for mizen top gallant mast and spritsail top gallant mast, as will appear by the account passed in the office. The 5-inch hawser, 60 fathom, was expended in foresheets, and what remained was returned into the Storehouse at Woolwich at the ship's arrival, as does appear by the accounts in the Navy Office. A spritsail topsail blown out of the boltrope, which was said to be sent on board the prize; the boltrope of the said sail is returned to the above mentioned storehouse, as does appear by the books in the Navy Office, which accounts the Commissioners of the Navy will produce when your Lordships please to order.

(h³) Paper C, endorsed Col. Dore's Paper, as follows:—

Monday, July the 26th, in the morning the *Mary* galley was towed out and went to sea, according to former orders. Tuesday the 27th, about six in the morning, the Colonel sent the Major and me to the Commodore, to desire him to call a Council of War, which was granted, and immediately summoned; and to prevent a dispute which happened, about beginning with eldest or youngest officer, every one wrote his name on a piece of paper with his "Aye" or "No" to it, according to his opinion. The Colonel acquainted them that they knew he had been hitherto always against their sailing to attack the French, as not believing it to be for the public service, but having heard that some of the sea officers had made some reflections upon him, as if he were the only hindrance of their sailing, he did at this time desire this Council of War (the wind being fair for them to get out) to let them know (that the fault might not be upon him) he was now for their sailing to attack the French, though in his own opinion he could not think it for the service. However, the papers being drawn, the "Noes" had it by a great majority. *Underwritten*: This is a true copy of what was read. *Signed* Tho. Dore.

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(i) 23, 25 and 27 March. Draft Resolutions agreed to on these days. L. J., XVI. 413, 419, 420. *In extenso*.

(j) Abstract of notes of evidence as follows :—

Desborow, fol. 1. Capt. Desborow gave intelligence of Ponti's five ships.

Essex, fol. 4. Wm. Essex gives account of the taking 4 men, who gave intelligence of Ponti.

Hashfield, fol. 4. Charles Hashfield gave the like account.

Cumberbatch, fol. 5. Alexander Cumberbatch gave account by letter to Commodore Norris of Ponti's five ships.

Farmer, fol. 8. Tho. Farmer gives account of the carrying 23 Frenchmen into St. John's harbour.

Stapleton, fol. 10. Mr. Stapleton owns Mr. Desborow gave account of Ponti.

Desborow, fol. 15, 39. Mr. Desborow's account of his application to the E. of Orford and Sir Robert Rich of his ill usage from Mr. Norris.

Court martial for breaking Mr. Desborow, 11 Aug. 1697. Depositions taken at the Council of War when Capt. Desborow was broke.

Stephens, fol. 21. Mr. Stephens informs that he saw on board the *Monk* 3 or 4 strangers, whom the officers told him had been taken by Ponti off the harbour's mouth on the 22nd or 23rd July, and had afterwards come away in their own ship's boat.

Cleasby, fol. 37. Mr. Cleasby gave account by letter to the fleet at St. John's of the arrival of two of Ponti's squadron at Placentia.

(k) 24 March. Copy Depositions against the Captain of the *Mary* galley. *Endorsed* Copy Affidavits taken at the Council of War when Capt. Desborow was broke. Delivered at the Bar by James Petre 24 March 1698. Identical with next paper, the original.

(l) 25 March. Depositions against the Captain of the *Mary* galley, as follows :—John Stonman, Master of his Majesty's ship *Mary* galley, deposeth upon oath that having sailed out of St. John's harbour, on Monday the 26th day of July, they stood to the northward, and on the 27th in the forenoon, they gave chase to 3 small sail, one whereof they came up with, which proved to be the *Lisbon Merchant*, Captain Sackes, Commander, who came that morning from Carboncar, and acquainted them that the night before was there taken a French man of war's boat with several prisoners, and that Capt. Littleton, Commander of his Majesty's ship *Portland*, was gone thence with them to St. John's. Also that there were five sail of French men of war then at anchor in Conception Bay. He farther deposeth that on the 28th they saw them at about 4 miles distance from them; that the biggest of them had a white flag at maintop masthead, which he judged to be a ship of about 80 guns, under sail; that thereupon they made the best of their way to St. John's harbour, to acquaint the Commander in chief with it. That they plyed off and on of St. John's until the 29th, when they sailed again to the northward, the wind at S.W. and by W. and the weather very foggy. That at 11 o'clock that night they fell in with the aforesaid five sail, near Cape St. Francis. That the sternmost ship of them fired a gun and made false fires, upon

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which all their lights were immediately put out, and they lost sight of them, it being hazy weather; that they stood upon a wind until it cleared, which was about 2 o'clock in the morning, when the wind coming out at N.N.E. and seeing no sail, they stood in for Carbonear to gain intelligence if those ships had done any injury there. That their Captain went ashore and returned at 9 o'clock at night and brought a French prisoner on board with him, who had been taken in the aforementioned boat. He further adds that that night, about 12 o'clock, the current set them so near to the shore, that they were obliged to come to an anchor until 3 in the morning, when they weighed and made sail for St. John's, but the wind being contrary they got not off that harbour until the 31st, when their Captain went into the harbour in his boat to acquaint the Commander in chief with what intelligence he had learned.

JNO. STONMAN.

Mr. John Crew, lieutenant of his Majesty's ship *Mary* galley, deposeth upon oath, that on 26 of July they sailed to the northward from St. John's, but the weather proving foggy they lay by all that afternoon and night, and the next day the weather clearing they spied a small sail, which proved to be an English merchant-man from Carbonear, who gave an account that there had been a boat taken there with several French prisoners, and that Capt. Littleton was gone with them to St. John's; as likewise that there were five French men of war at an anchor near Belleisle, which on the 28th they descried according as the said vessel had told them. About 5 o'clock in the morning they stood towards them, and made them, to the best of his judgment, one about 80 guns, two between 70 and 60, and two between 40 and 50, being then about a league distance from them. At 7 next morning, they bore away and got into St. John's harbour about 11, where their Captain went in his boat to acquaint the Commodore with it. At 6 in the afternoon he returned on board, and they immediately made sail again to the northward. At 8 that night Cape St. Francis bore W.N.W. of them, distance 2 miles, when the weather proving foggy occasioned their lying by until 10, at which time they set their foresail. At half an hour after 11 they espied 4 lights to leeward, and being within half a mile of them, made them to be the ships aforementioned. The sternmost of them fired a gun and made false fires, upon which all their lights were immediately put out, and they lost sight of them. They stood after them until 2 next morning, and then made the best of their way to Carbonear to give intelligence. On the 30th they got off of Carbonear, and at 11 o'clock in the forenoon their captain went on shore and returned about 7 in the evening, and gave orders they should make the best of their way to St. John's, but about 12 o'clock that night the current set them between the island of Carbonear and Harbour Grace, which forced them to come to an anchor till 3 next morning, when the wind coming out at N.E. they weighed anchor and got to St. John's on the 31st, where the Captain went immediately in his boat to give the Commander in chief an account.

JNO. CREW.

John Carr, mate of his Majesty's ship *Mary* galley, deposeth upon oath, that they sailed on the 26th of July from St. John's

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harbour, and on the 28th, at 6 o'clock in the morning, being in Conception Bay, they saw 5 sail of ships at 5 or 6 miles distance from them; and that one of them had a white flag at main top-mast head. Whereupon they stood off and made the best of their way for St. John's to give the Commander in chief an account of them; where they came on the 28th in the afternoon, and the Captain went in his boat about 3 o'clock and returned at 5 in the afternoon and ordered to make sail again to the northward, which they accordingly did, and on the 29th, at 11 o'clock at night, they fell in with some ships in Conception Bay, which they distinguished by their lights, it being thick foggy weather. The sternmost of them they believe discerned them, because she fired a gun and made false fires, upon which all their lights were presently extinguished. They continued their course after them to the E.N.E. until 2 o'clock in the morning, when having lost sight of them and the wind proving northerly, they stood in for Carbonear, their Captain being desirous to learn some intelligence from thence. At 11 o'clock the same day in the forenoon, their Captain went on shore to Carbonear and returned about 6 or 7 at night, but it proving little wind that night they were obliged to come to an anchor, being near the shore. At 3 next morning we weighed anchor and made the best of our way for St. John's, and on the 31st arrived there.

JOHN CARR.

Nicholas Bundock, mate of his Majesty's ship *Mary* galley, deposeth upon oath that having sailed out of the harbour of St. John's on the 26th of July, on the 28th they came to Conception Bay about 6 o'clock in the morning, where they saw 5 sail of ships at 6 miles distance from them, one whereof had a white flag at maintop mast head, whereupon they stood off and made the best of their way to St. John's, after they had viewed them for about an hour and a half together, and believed the chief of them to be a 3-deck ship and to carry about 90 guns, and that the others were about 70 and 60 guns. On the 28th they arrived at St. John's and sailed again the same day to the northward. In the evening they got off Cape St. Francis and at 11 at night fell in with the aforementioned ships which they distinguished by their lights, it being foggy. At 12 it cleared up and having lost sight of them, they stood in towards Carbonear, where their Captain went on shore about 11 o'clock in the forenoon and returned about 8 at night, when it proving very calm and being but about a mile from the shore, they were forced to east anchor till 3 o'clock in the morning, when they weighed and made what haste they could to St. John's.

NICHOLAS BUNDOCK.

Mr. Arthur Bass, Lieutenant of his Majesty's ship *Monk*, doth depose upon oath, that being sent by Capt. John Norris, Commander in chief of his Majesty's ships in Newfoundland, to get intelligence from the northern part of the coasts, on the 28th of July, under Belleisle, he saw 5 ships, which he was informed by the inhabitants of that place were French men of war, and that he did at the same time see in the bay his Majesty's ship *Mary* galley, and to the best of his judgment it was from 6

to 10 of the clock, no nearer to the French ships than 2 or 3 leagues. 1698-9.

ART. BASS.

No. 1378.

Vera copia. Decimo sexto die Augti. 97.

Jurat coram me,

Ja. Petre.

- (m) 25 March 1699. Letter from Mr. Burchett to Matthew Johnson, Esq., Clerk of the Parliaments. On receiving the Order of the House for sending their Lordships the original Depositions made at the Court-martial which dismissed Capt. Desborow in Newfoundland, he ordered search to be made for them, but is informed that they cannot be found. Lord Orford coming to the Office last night and telling him that the Chaplain who acted as Judge Advocate had sworn that he delivered them into the Office in a letter to Mr. Bridgeman, that gave greater insight where the Depositions might be found, and the same have since been found, and are enclosed. *Dated* Admiralty Office, 25 March 1698-9.
- (m) 25 March 1699. Cover of preceding. *Endorsed* as received from Mr. Burchett this day.
- (n) [14 April 1699.] Letter from Mr. Burchett, Secretary to the Admiralty, to Matthew Johnson, Esq., Clerk of the Parliaments, concerning the return of Capt. Norris. In answer to their Lordships' Order of the 13th inst. he is commanded by the Lords of the Admiralty to say that Capt. Norris arrived at Cadiz on the 10th of February last, and being by his instructions to stay 10 or 12 days there, and then to repair to England, his arrival may be reasonably expected every day. *Dated* Admiralty Office, 14 April 1699.
- (n¹) Cover of preceding.
- (o) 17 April. Paper *endorsed* "Clause added to Desborow's Address 17 April 1699 after the House had agreed to it, relating to Capt. Norris." Begins ("And whereas several matters"). Ends ("his employment in your Majesty's Service"). L. J., XVI. 440. *In extenso*. [See notes above under date.]
- (p) 17 April. Amended Address concerning Capt. Desborow, as finally agreed to this day. The amendments made in Select Committee appear in the following passage:—"Which being the only Deposition that charges Desborow with being at that distance from the French ships, *we must observe that the said Bass was not on board the same ship with Desborow, which* [and the said Bass not being in the ship with Desborow, and] the other four Deponents [having been all that while on board him] *were, and besides, the said Cumberbatch, who was then aboard Pont's ships, does depose that on the 28th July (as he believes it was) he saw a frigate-built ship of 36 guns, which he took for English, which ship in truth proved to be the said Mary galley, so that* it does not appear to us that any breach of orders." The words added in the House, as shown on preceding paper, are also written on this draft. L. J., XVI. 438-440. *In extenso*. *Underwritten* is the following: "18 April 1699. The Lord Chancellor acquainted the House that he had attended his Majesty," etc., and also the entry of E. Bradford's Report of his Majesty's Answer on 21 April, as given *in extenso*. *Ib.*, 446.
- (q) 19 April. Letter from Mr. Burchett to Matthew Johnson, Esq., Clerk of the Parliaments. Sends bearer for the two
- (O. 1.)

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Books belonging to the Admiralty Office which were lately laid before their Lordships' Committee. Begs that the Book signed by Capt. Norris and containing results of Councils of War, &c., may be returned. *Dated* Admiralty Office, 18 April 1699. *Endorsed* April 19 1699. Received the above-said Books at the Parliament Office, Westminster, of Mr. John Walker, William Thompson.

1379. Feb. 23. Harvy v. Western.—Petition and Appeal of Elizabeth Harvy, the only child of Charles Harvy, deceased. Petitioner's late father and Thomas Western, the Respondent, were partners in a considerable iron trade in London and elsewhere. The former died, leaving Petitioner, an infant about six years old, an orphan of the City of London, and Elizabeth, her mother, his executrix. Western, taking advantage of this, and in breach of the articles of partnerships, seized all the partible estate, computed at above 50,000*l*. and Petitioner's mother was forced to submit to a reference and to give him a release. The referees awarded her an inconsiderable sum, far less than what was due. Petitioner brought a Bill in Chancery against Western for an account of her father's share in the partnership, to which the latter pleaded the Statute of Limitations and the award and release, but was ordered to produce his books before a Master. The books, so produced, being full of intricate and tedious accounts, unfit to be examined in Court, Petitioner prayed a reference of the account to a Master, before determining the Cause, but her Bill was dismissed without such reference. Appeals from this dismissal, and prays for an early day for hearing. *Signed* by Appellant. *Countersigned* Wi. Williams, Tho. Dyose. L. J., XVI. 388. [The Appeal was heard on 28 April and dismissed after hearing *Sir W. Williams* and *Sir Bartholomew Shore* for Appellant and *Sir Thomas Powys* and *Mr. Dobyne* for Respondent. MS. Min. L. J., XVI. 456.]

Annexed:—

(a) 9 March 1698-9. Answer of Thomas Western, Esq. Respondent was persuaded to take Harvy, a relative of his wife, as partner for a third in the trade of an ironmonger and casting iron guns and other wares, and lent him 900*l*. to complete his third of the stock agreed on, and took it again out of the profits of his share, as he could spare it. The partnership lasted 14 years, till 1 March 1670, when an estimate of the stock was taken but only roughly, since both parties desired to continue the partnership, and by articles of 31 July 1671 they agreed to carry on the joint trade for 10 years longer, till 1 March 1680, with the stock then in being, with a covenant that if any difference should arise at the end of that time between them or the executor of either of them and the survivor, each party should choose one to end it by award. Harvy dying on 28 Oct. 1672, the goods in stock were appraised, by an agreement between Respondent and Harvy's widow and executrix, and an account was taken from the books by Edmund and Thomas Harvy, the Appellant's uncles, Thomas having served apprentice to the partners and acted as bookkeeper, and Edmund being a tradesman and a good accountant. The executrix and Respondent referred all differences to Mr John Bonn, her brother-in-law, and Mr. Thomas Bard, an iron-master, another relation of her's, who on perusing the uncles' account and the books, thought it better for the widow to have a sum in hand than a third part of

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the goods and debts. They therefore made an award for the Respondent to pay her, in addition to the 1,000*l.* he had paid her since Harvy's death, 5,100*l.* She was also to have the third part of a debt of 3,000*l.* owing to the partnership from the Office of Ordnance, and then release to Respondent all her share and interest in the joint stock. Respondent was to take the hazard of the debts owing to the stock and indemnify her against the debts of the partnership. The award was signed, the money paid and release given, and the Ordnance Office debt being compounded for 1,500*l.* Respondent had her third share of it. The matter having thus rested in peace for 25 years, Appellant, ten years after she came of age, brought her Bill in Chancery for an account of the whole stock and trade in partnership, on pretence that she was an infant when the account and award was made, and that her mother and the arbitrators were imposed upon. The Lord Chancellor, after a full hearing, on 25 July last, overruled all objections against the account, and dismissed Appellant's Bill, but without costs, as it appeared she had been misled and encouraged in her suit by her mother. *Signed* by Respondent. *Countersigned* Edm. Jones. *Endorsed* as brought in this day. No entry in L. J. or MS. Min.

(b) 17 April 1699. Petition of Appellant for an early day for hearing, and that Respondent may be ordered to produce on oath all the books, &c. relating to the partnership, which he was ordered to produce before the Master in Chancery, and also those books which he concealed and which were afterwards produced in Court by his Clerk, John Gilbert, and that Appellant may have an Order for such witnesses as were to prove writings *vivâ voce* in the Court of Chancery. *Endorsed* as read this day. L. J., XVI. 438.

(c) 20 April. Petition of Respondent. Appellant petitioned the House on the 17th inst., and obtained an Order thereon, when she knew Respondent was retired into the country 40 miles from London for his health. All the books in question have remained, and are still with Sir John Franklyn, the Master of the Court. Petitioner, being nearly 80 years old and very infirm, prays that his attendance may be dispensed with, and that Sir J. Franklyn may be Ordered to attend at the Hearing with the books and accounts. *Endorsed* as read this day. L. J., XVI. 444.

1380. Feb. 23. Scott's Estate Act.—Amended Draft of an Act to enable Trustees to sell part of the estate of George Scott, Esq., to pay debts and raise portions for his brothers and sister, and to settle other part of his estate. The only material Amendment by the Lords is to insert the names of the trustees. The Bill was not amended in the Commons. [Read 1^a this day. Royal Assent 4 May. L. J., XVI. 388, 466. 11 Will. III. c. 78 in Long Cal.]

Annexed :—

(a) 20 March. Lords' Amendments to the Bill. [Made in Committee 16 March, and reported this day. Com. Book. L. J., XVI. 407.]

1381. Feb. 24. Seyliard's Estate Act.—Amended Draft of an Act for vesting certain lands of Sir Thomas Seyliard, Baronet, in the County of Kent, in Trustees, to be sold for the payment of his sisters' portions charged thereon. [Read 1^a this day. Royal Assent 4 May. L. J., XVI. 389, 466. 11 Will. III. c. 55 in Long Cal.]

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Annexed:—

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No. 1381.

(a) 21 March. Lords' Amendments to the Bill. [Made in Committee 16 March. Com. Book. Reported this day. L. J., XVI. 410.]

(b) 21 March. Amended Clause, marked A, confirming a settlement or jointure made by Sir T. Seyliard to his wife. [Added in Committee 16 March and reported this day. Com. Book. L. J., XVI. 410.]

1382. Feb. 27. Aliens Bill.—Commons' Engrossment of an Act to enable his Majesty's natural-born subjects to inherit the estate of their ancestors, lineal or collateral, notwithstanding their father or mother were aliens. Identical with the Act of 11 April 1700 (12 Will. III. c. 7 in Long Cal.),* except in the following particulars, where the Act omits the words in square brackets, and adds those in italics, viz. :—

Line 1 (Fol. Ed.) . . . “within the King's dominions are [often times] disabled . . .

Line 6. . . . “all and every person [and] *or persons*” . . .

Line 7. . . . “to any *honours, manors, lands,*” . . .

Line 10. . . . “person or persons *by, from, through or under whom he, she, or they shall or may make or derive their title or pedigree.*” . . .

Line 13. . . . “as if such father or mother, or fathers or mothers, or other ancestor or ancestors, *by, from, through, or under whom he, she, or they shall or may make or derive their title or pedigree,* had been naturalized or natural-born *subject or subjects.*” . . .

Parchment Collection. [Brought from the Commons this day, and read 1^a on March 13. L. J., XVI. 391, 401. In Committee on 12 April, E. Rochester in the Chair, the *Attorney-General* heard. It affects the King and Lords of Manors. It will in effect enable aliens to purchase lands. No further proceedings.]

1383. Feb. 27. Owen v. Saunders (In Error).—Copy Writ of Error and Transcript of Record, with Tenor of Judgment affixed thereto. L. J., XVI. 391. L. J., XVI. 432. *In extenso.*

On 25 June 1690 Philip Owen was appointed Clerk of the Peace for the County of Kent by Heneage, Earl of Winchilsea, Custos Rotulorum of the County, in whom the appointment was vested by Statute 1 Will. and Mary c. 21. The appointment was made orally in the Court of Sessions at Maidstone. Owen then took the necessary oath and performed the duties of the office. In September following E. Winchilsea died. V. Sidney succeeded him as Custos Rotulorum, and immediately appointed Robert Saunders to be Clerk of the Peace, *quamdiu se bene gesserit*. Saunders was duly admitted to the Office. Upon this Owen made plaint for the office of Clerk of the Peace whereof he was seized until Saunders disseised him. Judgment was given for Owen in an Assize of Novel Disseisin on the ground that the office in question was given for life under 1 Will. and Mary c. 21, not *durante bene placito*. (Cp. No. 746 Vol. 1. MSS. of the House of Lords.) An Appeal was brought in King's Bench against this judgment. It was there held that the Custos Rotulorum of the County may appoint a Clerk of the Peace by *parol* but that the appointment of Owen was not strictly in accordance with the terms of the Statute and therefore not a

* This Act is wrongly printed in the Folio Edition of the Statutes as an Act of 1698-9 (11 Will. III. c. 6).

good one (Raymond's Reports, Vol. I, Owen v. Saunders). The previous Judgment was accordingly reversed. Owen then brought a Writ of Error to the House of Lords.

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[On 3 April Counsel were heard to argue the Errors assigned. *Sir Thomas Powys* and *Mr. Northey* for the Plaintiff; *Mr. Serjeant Wright* and *Sir Bartholomew Shore* for Defendant. Proposed to hear the Judges. *Lord Chief Justice of the King's Bench*: That which guided me was the Earl of Winchilsea's calling for the deed and [it] being read he says "I do appoint the said Philip Owen to be Clerk of the Peace." *L.C.J. Common Pleas* heard. The Judgment given in the Court of King's Bench was reversed, the Judgment given in the Court of Common Pleas affirmed, and the Record remitted. MS. Min. L. J., XVI. 432.]

Annexed:—

(a) 10 March. Petition of Plaintiff that a short day may be appointed for Defendant to reply and join issue. L. J., XVI. 397.

(b) 13 March. Petition of Defendant praying that he may be allowed until Saturday next to join issue. L. J., XVI. 400.

1384. Feb. 27. Byde's Estate Act.—Amended Draft of an Act to enable Thomas Byde, Esquire, an Infant (with the consent of his guardians and next relations) to make a Contract for the buying in his mother's jointure, and to sell a small estate in Great Amwell, in the County of Hertford, and likewise for the securing and raising a portion for Barbara Byde, sister of the said Thomas Byde, and for other purposes in the Act mentioned. The principal Amendments are to insert the names of the Trustees and the amount to be raised. No Amendments in the Commons. [Read 1^a this day. Royal Assent 4 May. L. J., XVI. 390, 465. 11 Will. III. c. 64 in Long Cal.]

Annexed:—

(a) 20 March. Consent of George, V. Grandison, to the passing of the Bill. Dated 13 March 1698-9. Attested Will. Bradford, Wm. Johnson. Underwritten is an affidavit by the said William Bradford, servant to V. Grandison, and William Johnson, of Barnard's Inn, London, Gent., that V. Grandison, by reason of his great age and infirmity, is unable to give his consent to the Committee in person. Sworn before Robert Legard, 14 March. [Read in Committee this day. Com. Book.]

(b) 21 March. Lords' Amendments to the Bill. [Made in Committee 20 March, and Reported this day. Com. Book. L. J., XVI. 410.]

1385. Feb. 27. Lascells' Estate.—Draft of an Act for vesting the real estate late of Thomas Lascells, Esquire, deceased, in trustees, to be sold for payment of his debts. No Amendments in either House. [Read 1^a this day. Royal Assent 4 May. L. J., XVI. 391, 466. 11 Will. III. c. 69 in Long Cal.]

1386. Feb. 27. Wake's (*alias Jones*) Estate Act.—Amended Draft of an Act to enable Samuel Wake, *alias Jones*, Esquire, to sell lands to pay debts, and to purchase other lands adjoining to and formerly parcel of his manor of Waltham, *alias Waltham Holy Cross*, in the county of Essex, to be settled to the same uses. The Amendments are mainly of a formal character. [Read 1^a this day. Royal Assent 4 May. L. J., XVI. 391, 465. 11 Will. III. c. 65 in Long Cal.]

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Annexed :—

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No. 1386. (a) 31 March. Lords' Amendments to the Bill. [No entry in Com. Book. L. J., XVI. 428.]

1387. Feb. 28. E. Warwiek and Holland and L. Mohun (Death of Coote).—Letter from John Riee to Mr. Ralph, stating that by the L. C. Justice Holt's order the writer brought the Depositions against E. Warwiek to Mr. Walker. The L. C. Justice and Mr. Walker both told him that they had been read in the House, and that he might have them again. He attends on purpose, and prays to have them sent on to him by the bearer. *Endorsed* 28 Feb. 1698. I delivered the Depositions to Mr. Riee.

[The MS. Min. and Com. Book supplement L. J. in the following particulars :—

On 28 Feb. the *L. C. J. King's Bench* gave the House an account that the Indictment of Edward, Earl of Warwiek was in the custody of the Clerk of the Peace, and the Indictment was with others of that time brought into the House. Some Informations were produced and read. *Ordered* that E. Warwiek be committed to the Tower. MS. Min.

On 13 March *Mr. Surveyor-General* was called in and asked in what time the Hall can be prepared for the trial of E. Warwiek. He says it may be ready in 14 working days. Subsequently he was called in and told the House had appointed to-morrow fortnight the day for the trial. MS. Min.

On 22 March the House was informed that there was not room enough in Westminster Hall for the Peers who wished to be present at the trial of E. Warwiek. *Sir Christopher Wren* was called in and told so. He says he thinks there will be room. He is told that the preparations must be made in exactly the same way as in the case of L. Mohun's previous trial.

On 23 March various Lords were excused attending at the trial.

On 24 March the Committee to consider of the trial was revived. L. J., XVI. 405. *Sir Christopher Wren* was called in and asked whether a stool is prepared for Mr. Attorney within the Bar. He says he will take care of it. He is asked whether 11 benches are made. He says there will be 18 benches. *Ordered* to report as the opinion of the Committee that no Lord that shall not appear at the trial shall have any tickets for places. Com. Book.

On the same day *Sir Christopher* was called into the House and told that it was said there would not be room in the Hall if every Lord had eight tickets. *Answer* I believe it may hold them, but not if so many. He says he can prepare for 740, foreigners and all. MS. Min.

On 27 March he was sent for and asked what room there was in the Hall, there being more tickets given out. He says there is room for more than 750 and some boxes are ordered. MS. Min.

On 28 March, at the trial, after *Mr. Serjt. Wright* and the *Attorney-General* had been heard, *Samuel Cawthorne* was called [and said] Lord Warwiek, Lord Mohun, Capt. Coote, French, James, and Doekray were at the Greyhound in the Strand the Saturday 29 October, and they continued there until one or two [when] James was sent for. They came downstairs good friends. When they came down Lord Warwiek went to the bar—sent for a coach—then chairs called for. Lord Warwiek, Lord Mohun, and Capt.

Coote went in the three chairs, and there were two more chairs. They ordered the chairs to carry them home. Lord Mohun and Lord Warwick both said so. I heard the swords clash. Three were within the bar and three without. I know nothing more. Lord Warwick, *asked* if he would ask any question—this is the time—*asked* whether Lord Warwick did not bid the chairmen go home. *Answer* I never heard an angry word between you and Mr. Coote. Leave given to [the] Duke [of] Somerset and four or five Lords to sit on the woolsack to hear. *Thomas Browne, Smith, James Grodstan* [Crattle], *Robert Appleton* [Applegate], *Peter Kethrov* [Catro], *John Palmer*, [Henry] *Amy* were heard. *Capt. Duckinfield*: They said they were afraid Mr. Coote was killed. French was his adversary. Lord Warwick and Lord Mohun friends to Coote. Mr. James fought with Lord Warwick. Lord Warwick's sword was bloody. *Capt. Coote's* man produced two swords. *Mr. White*, Coroner, was heard.

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The E. Warwick was told the King's Counsel had ended their evidence and now he may make his defence. He says he relies only on their Lordships. His absconding he hopes will not be prejudicial to him. He desires to read what he has to say, which was allowed, to refresh his memory.

I am innocent, and to show it I surrendered myself.

E. Warwick calls witnesses of friendship with Coote. *Capt. Keating, Capt. Bissett, Mr. Stanhope, Mr. Disney, Col. White-man. E. Warwick's Steward* heard as to 100*l.* lent to Mr. Coote. Mr. Coote often lay with E. Warwick at his house.

Mrs. Amy heard. [E. Warwick] I shall give your Lordships no further trouble. He proposes to hear his Counsel upon this question, Whether he be guilty as the other three, he being engaged on Mr. Coote's side.

Then *Mr. French* was proposed by E. Warwick as a witness and rejected. E. Warwick prays his Counsel may be heard as to that whether he, going out to hinder a quarrel, ought to be taken as an accessory, he being on the same side with him that was killed. The Lord High Steward asks E. Warwick whether he insists to have his Counsel heard.

E. Warwick says he will not trouble the Lords further. Leave given to the E. Warwick to have a chair, having hurt his leg and not able to stand.

The King's Counsel summed up the evidence.

Mr. Solicitor he owned the evidence dark in the whole. After the adjournment to the House of Lords, and the protestation by the Bishops, it was proposed to ask the judges whether all (that) are accessory in manslaughter as in cases of murder. Proposed that L. Warwick be reprimanded if found guilty of manslaughter only.

On returning to Westminster Hall the Lord High Steward began with the youngest baron and asked L. Bernard* whether E. Warwick was guilty. MS. Min.

* (Barnard) his name is not recorded in L. J. as being present on 28th, though he appears in the list on 29th March. L. Willoughby de Broke, L. Dudley and L. Ferrers also appear in MS. Min. but not in L. J. L. Ferrers was on 29th March excused attendance, being indisposed. L. J., XVI. 427. The other two were present on 29 March.

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No. 1387.

On 29 March L. Mohun was tried in the same manner as E. Warwick. The Indictment was read to him in English.

Mr. Cooper and the Attorney-General were heard.

Samuel Cawthorne (drawer) *Thomas Browne* [*Robert*] Appleyard [Applegate], *Peter Kethrow*, [*William*] *Salmon* (Surgeon) were examined.

L. Mohun calls his evidenee,* the King's Counsel having done. *Mr. Price* is heard.

After the adjournment and the protestation by the Bishops, as on the previous day, the Lord High Steward put the question beginning with L. Bernard.† MS. Min.]

Annexed :—

- (a) 7 March. Petition of Edward, Earl of Warwick and Holland, for a speedy trial, or to be bailed. *Endorsed* as read this day. L. J., XVI. 396. *In extenso*.
- (b) 20 March 1698-9. Petition of Charles, Lord Mohun. Petitioner, having the misfortune of an Indictment against him with the Earl of Warwick for the death of Richard Coote, Esq., deceased, and hearing that a day is appointed for the trial of the said Earl, would have surrendered himself to their Lordships, had not his want of health and his inability to bear the charge made him very apprehensive of an imprisonment in the Tower, not but that Petitioner, being fully assured of his own innocence in that matter, is very desirous of a speedy trial. Prays to be tried so soon as their Lordships shall judge fit, against which time Petitioner will be ready to surrender himself. *Signed* Mohun. *Endorsed* as read this day. *Ordered* to surrender himself Wednesday next. L. J., XVI. 407.
- (c) 22 March. Petition of Edward, Earl of Warwick. Prays for a copy of the Indictment and an Order for his witnesses, and that Counsel may be allowed him for his assistance. *Signed* Warwick. *Endorsed* as read this day. Counsel allowed, witnesses and copy Indictment. L. J., XVI. 412.
- (d) 25 March 1699. Petition of Charles, Lord Mohun. Prays their Lordships to allow him Counsel and a copy of his Indictment, and also an Order for summoning his witnesses. *Signed* Mohun. *Endorsed* as read this day. L. J., XVI. 418.
- (e) 28 March. Petition of Edward, Earl of Warwick and Holland. Petitioner, being first named in the Indictment and having been first committed, and having separate and distinct Counsel for his defence from the Counsel of L. Mohun, prays, pursuant to their Lordships' Order of yesterday, that he may be tried apart. *Endorsed* as read this day. *Ordered* as desired to be tried apart. L. J., XVI. 422.
- (f) 28 March. Commission for L. Chancellor Soñers to be Lord High Steward. *Dated* 25 March 11 Will. III. L. J., XVI. 422-3. *In extenso*.
- (g) 28 March. Certiorari and Indictment of E. Warwick and Holland and L. Mohun. *Endorsed* as brought in 13 March

* Apparently only one witness, who gave evidence as to L. Mohun having cut his finger. Howell's State Trials, Vol. XIII.

† (Barnard) his name is not recorded in L. J. as being present on 28th though he appears in the list on 29th March. L. Willoughby de Broke, L. Dudley and L. Ferrers also appear in MS. Min. but not in L. J. L. Ferrers was on 29th March excused attendance, being indisposed. L. J., XVI. 427. The other two were present on 29 March.

1698-9. See L. J., XVI. 400. [Read in the House this day. 1698-9.
L. J., XVI. 423-4. *In extenso.*]

(h) 28 March. Notes of proceedings this day, after judgment No. 1387.
given by the Peers, as follows:—

“The Prisoner brought to the Bar.

“*L. H. St.* My Lord of Warwick. Your Lordship hath been arraigned upon an Indictment of murder for killing of Mr. Richard Coote, and pleaded not guilty, and put yourself upon your trial by my Lords present, your Peers. My Lords have heard the evidence given against you and for you, and have considered of it, and have come to this resolution unanimously that your Lordship is not guilty of the murder, whereof you stand indicted, but you are guilty of manslaughter. What hath your Lordship to say why judgment of death should not pass against you according to Law?

“*Earl of Warwick.* My Lords, I desire the benefit of my Peerage, according to the statute of E[dward] VI.

“*L. H. St.* My Lord. Your Lordship hath demanded the benefit of your Peerage upon the Statute, and your Lordship must have it by that Law. But I am directed by their Lordships to acquaint your Lordship that you cannot have the benefit of that Statute twice, and therefore they hope your Lordship will take care to behave yourself* in such manner for the future, as that you may never fall into the like misfortune, and they hope your Lordship will take warning by what has now happened. And your Lordship is discharged. L. J., XVI. 425. *In extenso.*

“Lord Mohun brought to the Bar.

“*L. H. St.*† My Lord Mohun. You have been indicted for the murder of Mr. Richard Coote, upon which your Lordship has been arraigned and pleaded not guilty, and for your trial put yourself upon your Peers, my Lords here present. They have heard the evidence on both sides, and considered of it, and delivered their judgment upon the whole matter, which I am to acquaint your Lordships with, and it is this: My Lords are all unanimously of opinion that your Lordship is not guilty of the murder of which you stand indicted, and therefore your Lordship is discharged from your imprisonment, paying your fees.” L. J., XVI. 428.

1388. March 1. Naturalization Act (Conlombiere and others).—Amended Draft of an Act for naturalizing Anthony Coulombiere *and others*. [Read 1st this day as an Act for naturalizing Coulombiere only. L. J., XVI. 393. Amended by the Lords by adding the names of John Hill, Charles de la Tour, Philip Lombard and Henry Misson, and inserting in the title the words given above in italics. Com. Book, 10 March. The Commons added the remaining names, viz., Philip Villarnoul [Villarnout in C. J.], Thomas Satur, Peter Cahaignes Hamars [Hamar in C. J.], Paul Arundel D’Ancour, John La Conde, and Michael Benediet. C. J., XII. 602. Royal Assent 24 March. L. J., XVI. 416. 11 Will. III. c. 24 in Long Cal.]

* The words originally were (“behave yourself so cautiously for the future.”)

† What follows is printed, but with variations, in Howell’s State Trials, XIII., 1059.

1698-9.

Annexed:—

No. 1383.

(a) Certificates that the following persons, named in the Act, have received the Sacrament according to the usages of the Church of England, viz.:—

- (1.) Anthony Coulombiere, on 12 Feb. 1698 at the Parish Church of St. Martin's, Westminster. *Signed* Tho. Yates, A.M., Curate, Minister. The signature of Francis Boteler, Churchwarden, who is named in the body of the Certificate, does not appear. *Dated* eod. die. *Attested* by Philippe de Jeaneourt de Villarnoul and John La Coude. [Read in Committee 10 March. Com. Book.]
- (2.) John Hill, on 5th Feb. 1698 at the same Church. *Signed* Tho. Yates, Curate, Fra. Boteler, Churchwarden. *Dated* eod. die. *Attested* by William Dornell, Cutts Hassan, and Richard Hammaker. [Read in Committee 10 March. Com. Book.]
- (3.) Charles de la Tour, on 5 March 1698, at the Parish Church of St. Anne's, Westminster. *Signed* Will. Hodges, Minister, John Meard, Churchwarden. *Dated* 7 March 1698. *Attested* by Henry Misson and Samuel Masse, of the said Parish, Gentlemen. [Read in Committee 10 March. Com. Book.]
- (4.) Philip Lombard.
Certificate wanting. [Read in Committee 10 March. Com. Book.]
- (5.) Henry Misson [Misson in the Act, signs as Misson in (3)], of St. Anne's Parish, Westminster. *Attested* by Charles de la Tour and Samuel Masse, both of the same Parish. Rest as in (3).
- (6.) Philippe de Jeaneourt, Marquis de Villarnoul.* *Attested* by Anthony Coulombiere and John La Coude. Rest as in (1).
- (7.) Thomas Satur, on 5 March 1698, at the French Church in the Savoy. *Signed* Thomas Satur, Minister (his father), John Braguier, James Debat, Churchwardens. *Dated* eod. die.
- (8.) Peter Cahaignes Hamars, on 5 March 1698, at the Parish Church of St. Martin's, Westminster. *Signed* Will. Laneaster, D.D., Minister, Fra. Boteler, Churchwarden. *Dated* eod. die. *Attested* by Henry Le Coq and Joachim Goudet.
- (9.) Paul Arundel D'Ancour [D'Amour in Act], on 12 March 1698, at the Parish Church of St. Martin's, Westminster. *Signed* Tho. Yates, A.M., Curate, Fra. Boteler, Churchwarden. *Dated* eod. die. *Attested* by Theophilus Dnchesne and Louis Rival.
- (10.) John La Coude, on 12 Feb. 1698. *Dated* eod. die. *Attested* by Philippe de Jeaneourt de Villarnoul and Anthony Coulombiere. Rest as in (9).
- (11.) Michael Benediet. *Attested* by Louis Rival and Paul Arundel D'Aneour. Rest as in (9).
- (b) 10 March. Lords' Amendments to the Bill, made in Committee this day. Com. Book.

1389. March 6. Browne's Naturalization Act.—Draft of an Act for naturalizing of Captain Thomas Browne. The Commons' Amendments were to add the remaining five persons (Annex (c) below) to the Act. C. J., XII. 606-7. *In extenso*. [Read 1st this day. Royal Assent 24 March. L. J., XVI. 395, 416. 11 Will. III. c. 28 in Long Cal.]

* Described in C. J., XII. 602 and in Act as Philip Villarnout, son of Philip, Marquis of Villarnout.

Annexed :—

1698-9.

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No. 1389.

- (a) 14 March 1698-9. Certificate that Thomas Browne [Captain in Act] received the Sacrament, according to the usage of the Church of England, on 12 March 1698-9 at the Parish Church of St. Martin's, Westminster. *Signed* Tho. Yates, A.M., Curate, Fra. Boteler, Churchwarden. *Dated* eod. die. *Attested* by John Morris and William Kenn. [Read in Committee this day. Com. Book.]
- (b) 23 March. Engrossment of Commons' Amendment in Pr. 1, l. 8, adding to the Bill the remaining persons (5) mentioned in the Act, whose certificates appear below.^q [Agreed to, on Report, by H.C. on 22 March. C. J., XII. 606. *In extenso*. Agreed to by the Lords this day. L. J., XVI. 413.]
- (c) 22 March. Certificates that the following persons, named in the Act, have received the Sacrament, according to the usage of the Church of England :—
- (1.) William Vernon, on 19 March 1698-9, at the Parish Church of St. Martin's, Westminster. *Signed* Tho. Yates, A.M., Curate, Fra. Boteler, Churchwarden. *Dated* eod. die. *Attested* by Daniel Drolenvaux and Paul Faure.
 - (2.) Francis Best. *Attested* by Jaques Overy and Louis Vivie. Rest as in (1).
 - (3.) Peter Belricu. *Attested* by Thomas Colom and Bernard Lauzat. Rest as in (1).
 - (4.) Daniel Drolenvaux [Droleaux in Act]. *Attested* by William Vernon and Paul Faure. Rest as in (1).
 - (5.) Samuel Masse. *Attested* by Anthoin Guiraud and Isaac Pouchel. Rest as in (1).

1390. March 6. Dighton v. Greenville [Granville]. (In Error). Writ of Error with Suggestion of Error, Writ of Certiorari endorsed with Answer of Holt, C. J., Answer to the Suggestion of Error and Transcript of Record.

A Writ of Error from the Court of King's Bench in a case in which Christopher Dighton complained that Bernard Granville had ejected him from his occupation of land, &c., in Thorpe in Balne and Bentley, in the County of York. *Parchment Collection*.

[Brought in this day. L. J., XVI. 394. On 31 March *Sir Bartholomew Shore* and *Mr. Northey* were heard for the Plaintiff and *Mr. Sergt. Wright* and *Sir Thomas Powys* for the Defendant. On 27 April L.C.J. Common Pleas reported (according to Order) what had been offered at the Bar. The twelve Judges had been ordered to attend, and it was proposed to hear them. *Mr. Justice Gold*: Tho. Lewis was seized of the manor of Marask three statutes Gerard Elways and Burroughs. These statutes were extended. Lewis continues in possession and sells this to John Lewis, who sells this to Edward Lewis. Opinion that the Judgment was righteous and ought to be affirmed. Of the same opinion :—Hatsell, B., Blencowe, J., Powys, B., Powell, J., Nevill, J., Holt, L.C.J., and the Lord Chief Justice of Common Pleas. Mr. Justice Rooksby and Lord Chief Baron Ward and Baron Turton, who was not present, his lady being dead, were for reversing it. *Ordered* that Judgment be affirmed and Record remitted. MS. Min.]

Annexed :—

- (a) 13 March.—Petition of Christopher Dighton, Gent. Petitioner has brought a Writ of Error to reverse a Judgment against him

1698-9.

No. 1390.

in King's Bench in an ejectment wherein Petitioner was Plaintiff and Bernard Greenville, Esq., was Defendant. Prays for a short day for Greenville to join issue. L. J., XVI. 399.

- (b) 20 March 1698-9. Petition of Honble. Bernard Granville. The Judgment given in King's Bench for Petitioner was so long since as 1688, and was affirmed by the Court of Exchequer Chamber in 1694. Prays for a further day for hearing. L. J., XVI. 407. [Read this day and Cause ordered to be heard on 24 March.]

1391. March 7. Meoles' Naturalization Act.—Certificate that John Meoles received the Sacrament, according to the usage of the Church of England, on 12 Feb. 1698 at the Parish Church of St. Martin's, Westminster. *Signed* Tho. Yates, A.M., Curate, Fra. Boteler, Churchwarden. *Dated* eod. die. *Attested* by John Hetley and Roger Worrall. [Read in Committee this day. Com. Book. The Bill was brought from the Commons and read 1^a on 1 March; Royal Assent 24 March. L. J., XVI. 393, 416. 11 Will. III. c. 18 in Long Cal.]

1392. March 8. E. Warrington v. Sir J. Langham and another. —Petition and Appeal of George, Earl of Warrington. Petitioner brought a Bill in Chancery against Sir James Langham, Knt. and Bart., and Ann Tipping, widow, setting forth that, by articles of 17 June 1670, between Petitioner's grandfather George, L. Delamer, and Sir James Langham, it was agreed, that on the marriage of Sir James' only child, Mary, with L. Delamer's eldest son, Henry Booth, late E. Warrington, Petitioner's late mother and father, Sir James should pay L. Delamer 20,000*l.* as a marriage portion, namely, half within three months after the marriage, and the rest within six months after Sir James' death. In consideration whereof, L. Delamer agreed, on payment of the first half, to settle on Petitioner's father and mother 1,500*l.* a year, to be paid to them for their maintenance during coverture, and after the death of Petitioner's father, for his mother's jointure. L. Delamer agreed to add 600*l.* a year to the said 1,500*l.* a year; and on payment of the second half of the 20,000*l.* it was agreed that L. Delamer should have the same power over it as he had over his estate to provide for his younger children as he should think fit. Soon afterwards the marriage took place, and a settlement was made of much greater value than the amount agreed upon in the articles. Thereupon the first 10,000*l.* was paid. L. Delamer, intending to make due provision for his younger children, by deed of 21 Sept. 1680, whereby he charged several of his lands with great sums, declared and agreed that the remaining 10,000*l.* should be paid to four trustees, all of whom are since dead. Ann Tipping is administratrix of the last surviving trustee. Petitioner's grandfather died about 14 years ago, his mother about 8 years ago, and his father 5 years ago, leaving Petitioner their eldest son and heir, who became entitled to the lands so charged, and has taken administration of the goods of his grandfather, with his Will annexed, not administered by his late father. Petitioner is both in law and equity entitled to the remaining 10,000*l.* and ought to have the aid thereof to disengage the lands, as well from the sums charged upon them by his grandfather as from other incumbrances of great value wherewith his late father clogged them in prospect of the 10,000*l.* Petitioner requested Sir James Langham to pay the said 10,000*l.* at any reasonable present discount or give better security for payment after his death, so as to form a fund of credit for Petitioner and such as had charges or expectations upon or from him

or his estate, and that his benefit thereof might not be disappointed, the rather as Sir James is very aged and infirm, and being lately married to one of disproportionate fortune, his affections are subject to be alienated from Petitioner, and though he has formerly owned the debt and acknowledged himself bound in honour to pay it, yet since his late marriage he has declared himself otherwise. The Court, however, dismissed Petitioner's Bill. Prays that this dismissal may be reversed. *Signed* by Appellant. *Countersigned* Na. Wright, Wm. Dobyns. L. J., XVI. 397. [The Cause was heard on 1 April; *Mr. Serjt. Wright* and *Mr. Dobyns* appearing for Appellant and *Sir Thomas Powys* and *Mr. Pooley* for Respondents. MS. Min. The Lord Chief Justice (Common Pleas) was Ordered to report what had been offered by Counsel. L. J., XVI. 431. This report was apparently never made. In L. J. are postponements of it from various dates till 1 May, on which day MS. Min. says "the House was informed that the [parties in the] ease of the E. of Warrington and Sir J. Langham are agreed."]

1698-9.

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No. 1392.

Annexed :—

(a) 18 March 1698-9. Answer of Sir James Langham, Knt. and Bart. Respondent consented to the marriage after much solicitation from George, L. Delamer, and executed the agreement, as set forth in the Appeal, which was drawn by L. Delamer's Agent. The first 10,000*l.* was paid, but Respondent was so much against the marriage, that he is very sure it had never taken effect if Appellant's grandfather or father had required any other security for the remaining 10,000*l.* besides the said agreement, nor would he have proceeded in the treaty, had not the articles, as he understood, been worded easy for him and his daughter, as they were for L. Delamer. Respondent has refused to advance the remaining 10,000*l.* or give further security, being in no way obliged thereto, the rather because Appellant's grandfather and father did not oblige themselves to settle any part of their estate on any of the issue of his daughter, and accepted the agreement as their only security, without pretending to require any other. The L. Chancellor on 24 Feb. 1698-9, after a full hearing, saw no grounds for relieving Appellant. Prays that the Appeal may be dismissed with costs. *Signed* by Respondent. *Countersigned* Tho. Powys, W. Barnesley. *Endorsed* as brought in this day.

(b) 20 March 1698-9. Answer of Anne Tipping, Widow. Respondent's late husband William Tipping, Gent., and Nathaniel Booth and Thomas Ashton, Esquires, and William Andrews, Gent., all since dead, were the trustees appointed by George, L. Delamer, in the settlement mentioned in the Appeal. Respondent's husband, who was the survivor, made Robert Tipping and Thomas Worseley the executors of his Will, and on their renouncing the probate, Respondent obtained Letters of Administration with the Will annexed. Respondent believes that Appellant's estate comes to him under harder terms, charges and incumbrances than would have been laid upon it in case there had not been great dependence upon the payment of the second 10,000*l.* Respondent, not knowing how far her concurrence was requisite to assist Appellant, submitted herself to the directions of the Court of Chancery, and now does the same to their Lordships. *Signed* by Respondent. *Countersigned* J. Ward. *Endorsed* as brought in this day.

1698-9.

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No. 1393.

1393. March 8. Okeover's Estate Act.—Draft of an Act to enable Thomas Okeover, Gent., son and heir apparent of Rowland Okeover, of Okeover in the County of Stafford, Esquire, together with the said Rowland Okeover, to make a jointure and settlement upon the marriage of the said Thomas Okeover. No amendments in either House. [Read 1^a this day. Royal Assent 4 May. L. J., XVI 397, 465. 11 Will. III. c. 58 in Long Cal.]

1394. March 8. Leeke's Estate Act.—Draft of an Act to enable Katherine Leeke, an Infant under the age of one and twenty years, to settle and dispose of her estate upon her marriage. No amendments in either House. [Read 1^a this day. Royal Assent 4 May. L. J., XVI. 397, 465. 11 Will. III. c. 59 in Long Cal.]

1395. March 10. Blackwell Hall Market Bill. Commons' Engrossment (amended by the Lords)* of an Act for the making more effectual An Act intituled an Act to restore the Market at Blackwell Hall to the Clothiers and for regulating the Factors there.

§ i. Whereas an Act made in the Session of Parliament held in the eighth and ninth years of the reign of his present Majesty, intituled An Act to restore the Market of Blackwell Hall to the Clothiers, and for regulating the Factors there, hath not been duly observed: Now the better to enforce the execution thereof, Be it enacted by the King's Most Excellent Majesty, &c., that in case any person or persons after the first day of June, in the year of our Lord one thousand, six hundred, ninety-nine shall buy any cloth of any factor, packer, drawer, clothworker or other person or persons (except of the owner of the cloth) otherwise than for ready money, then every such factor, packer, drawer, clothworker, person and persons selling the same cloth, shall, within twelve days next after the sale and delivery thereof, take or demand a note in writing from every such buyer and buyers, testifying, under the hand of such buyer or buyers, the cloth so sold, the sum or sums of money such cloth is sold for and payable by such buyer or buyers to the owner or owners of such cloth, or to his order, according to the contract made on sale thereof, and shall on demand deliver every such note, with notice thereon written of such buyer or buyers' usual place of abode, to the owner or owners of the cloth so sold, or to any person authorized by the same owner to demand or receive the same, on pain to forfeit to the owner or owners of the same cloth so sold, for every neglect or refusal of demanding such note or such delivery thereof with notice as aforesaid, the sum of five pounds for every cloth so sold and delivered as aforesaid, to be sued for and recovered by such persons and in such manner as the forfeiture for not demanding or delivery of the notes in the said Act mentioned is appointed to be sued for and recovered. And if any such buyer or buyers of any cloth as aforesaid for money not in hand paid at the time of the buying thereof shall refuse or neglect to give any such note or notes as aforesaid for the space of twenty days next after the demand of any such note or notes by the factor, packer, drawer, clothworker, person, or persons selling the same cloth, then every buyer and buyers shall forfeit and pay to the owner and owners of the cloth so bought the sum of forty shillings for every cloth so bought for money not in hand paid. And further, in case of any neglect or refusal to give such note or notes, the money for which such note or notes ought to have been given shall, from the

* The amendments consist of the insertion of the words in the last clause printed in italics, and are taken from Annex (a), being only noted marginally in the Engrossment for insertion.

expiration of the said twenty days, become due and payable, with interest after the rate of six pounds per centum per annum, for the forbearance thereof until the same be paid, or such note or notes delivered for the same as aforesaid, to be recovered in damages in an action brought by the owner or owners of such cloth for such money so due as aforesaid.

§ ii. Provided always, and be it enacted by the authority aforesaid, that no person or persons shall be liable to any other penalty or penalties, for or in respect of any offence by him or them committed contrary to this Act than is hereinbefore mentioned and expressed, any law or statute to the contrary notwithstanding.

§ iii. Provided also that this Act shall not extend to charge any person or persons with any of the penalties mentioned in the said Act for any offence by him or them committed, unless the person or persons so offending shall be prosecuted or sued for the same within one year next after the same offence by him or them committed.

§ iv. Provided also, and be it enacted by the authority aforesaid, that no person or persons shall sell any goods, wares or merchandises *made of or mixt with wool*, in Blackwell Hall Market, but such only who are the makers or owners thereof, or commissioned by the makers or owners under their hand to sell such goods, wares or merchandises, for the maker's or owner's use; and that all such goods as shall be brought to the City of London or the Liberties thereof be brought unto, pitched and harboured in Blackwell Hall and the Welsh Hall, or one of them, there to remain until the Hallage and other duties for the relief of the Poor Children in Christ's Hospital be paid or agreed and secured to be paid for the same.

Parchment Collection. [Brought from the Commons this day, and read 1^a on the 13th. Petitions to be heard were presented by the Blackwell Hall Factors and others. (See No. 1402) L. J., XVI. 398, 400. Counsel were heard on 20 March, and witnesses called for and against the Factors and Clothiers. MS. Min. The opponents were also heard in Select Committee, especially as to a proposal made by Mr. Molyneux to put a seal on cloths expressing the length and breadth of the cloth. Com. Book, 31 March and 4 April. The Commons disagreed to the addition at the end of the Bill. C. J., XII. 652. No further proceedings, though a Message reminding the Lords of the Bill was received on 1 May. L. J., XVI. 459.]

Annexed:—

(a) 19 April 1699. Lords' Amendments to the Bill. C. J., XII. 655. *In extenso.* They are all embodied in the text above. The last one is here noted in the margin as disagreed and the rest agreed. [Made in Committee 4 April and reported on the 12th. Com. Book. L. J., XVI. 435. This Paper was evidently sent with the next one to the Lords this day, with the Message desiring a Conference.]

(b) 19 April 1699. Commons' Reasons for a Conference on the subject of the Lords' Amendments. C. J., XII. 652. *In extenso.*

1396. March 10. Naturalization Act. (Bernardeau and others).—Amended Draft of an Act for naturalizing Samuel Bernardeau, Peter Chantreau Desgaudrée and others, private gentlemen belonging to his Majesty's three troops of Guards and Grenadiers. The Amendments are to leave out:—

No. 10 in Bill.—Peter Bishop, son of James Bishop, by Anna, his wife, born at Luneray [Lunery] in France.

1698–9.

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No. 1395.

1698-9. No. 30 in Bill.—Abraham Delzaune, son of Peter Delzaune, by Mary, his wife, born at Sedan in France.

No. 1396. No. 31 in Bill.—Peter Godde, son of Isaak Godde, by Anna, his wife, born at Bussy in France. [Switzerland.]

No. 32 in Bill.—John Mozett, son of Peter Mozett, by Anna, his wife, born at Sedan in France.

No. 33 in Bill.—Peter Morin, son of Peter Morin, by Anna, his wife, born at Châteaudun in France.

No. 35 in Bill.—Samuel Masse, son of Samuel Masse, by Mary, his wife, born at Tours in France.

No. 49 in Bill.—Martin Grandprey, son of Francis Grandprey, by Jeanne, his wife, born at Caen in France.

No. 84 in Bill.—Jeremias Laujol, son of Anthony Laujol, by Jeanne, his wife, born at Montpellier in France.

And to add :—

No. 88 in Act.—Daniell Richard.

No. 92 in Act.—Andrew Touse, son of John Touse and Margaret, his wife, born at Stainam [Steinau], in Germany.

No. 93 in Act.—Simon Trapman, son of Ralph Trapman and Barbara, his wife, born at Masebornell [Maarsbergen] in Gelderland.

No. 94 in Act.—Charles Babell, son of Maurice Babell and Lewis, his wife, born at Evreux in Normandy.

No. 95 in Act.—Abraham Delizan, son of Peter Delizan and Mary, his wife, born at Sedan in France.

No. 96 of Act.—Deric Williamson, son of William Williamson, by Gertrude, his wife, born at Harbergen in East Friesland.

The Commons added :—

No. 97 in Act.—Anthony Kidwell.

The following was added when the Bill came back from the Commons :—

No. 98 in Act.—Paul Guerard.

[Read 1^a this day. L. J., XVI. 398. On 14 March, after “several persons” had been sworn in order to be naturalized, the House Ordered the Muster-Master General or his Deputy to attend the Committee on the Bill, with the Muster Rolls of the said three troops of Guards and Grenadiers, and also an account how long the persons mentioned in the Bill had served in those troops. MS. Min. L. J., XVI. 403. In Committee on 17 March, E. Rochester in the Chair, the several persons named in the Bill are called in. Certificates are perused of several of them having received the Sacrament, and others of them, that had received but had not their witnesses sworn, are directed to have them sworn on Monday and attend on Tuesday, and others of them, that had received privately in their chambers, if they can receive in some Parish Church in the meantime, may then attend. Com. Book. In Committee on 21 March several certificates (Annexes (a^2), (a^5), (a^8), (a^9), (a^{10}), (a^{11}), (a^{12}) below,) were read and allowed, and the following persons were added to the Bill, viz., Touse, Trapman, Babel, Delizan and Williamson. Com. Book. The Bill was reported the same day. L. J., XVI. 410. On 29 April it was returned from the Commons with “Some Amendments,”* which were agreed to by the Lords with an Amendment, namely, the addition of the name of Paul Guerard. MS. Min. L. J., XVI. 457. Royal Assent 4 May. L. J., XVI. 466. 11 Will. III. c. 86 in Long Cal.]

* MS. Min. C. J., XII. 664. Wrongly entered “as an amendment” in L. J., XVI. 457.

Annexed :—

(a) 17 March. Certificates that the following persons have received the Sacrament, according to the usage of the Church of England, viz. :—

1698-9.

No. 1396.

(a¹) . On 5 March 1698-9, at the French Church in the Savoy :—

1. John Rondeau	-	-	No. 4 in Act.	
2. Peter Philippon	-	-	5	Philipon.
3. Abel Rostan	-	-	6	Rostau.
4. James Chitron	-	-	7	
5. Samuel Bernardeau	-	-	1	
6. Peter Chantreau Desgaudré	-	-	2	Desgaudrée.
7. David Baudeson	-	-	5	Baudisson.
8. John Hamilton	-	-	3	
9. James Mallortie	-	-	9	
10. John Vergnol	-	-	10	
11. Gabriel Varangeville	-	-	11	de Varangeville.
12. Jeremiah Thomassin	-	-	12	
13. Philippe Gulli	-	-	13	Philip Gullick.
14. Renaud de Comarque	-	-	14	Renaud.
15. Peter Jean	-	-	15	John.
16. James Taunay Duplessis	-	-	16	Tauanay du Plessis.
17. Samuel Redard	-	-	17	
18. Noah Regnaut	-	-	18	
19. Lewis Bernardeau	-	-	19	Louis.
20. Peter Verharen	-	-	20	
21. Abraham Perdriau	-	-	21	
22. John Tostain	-	-	22	
23. Cornelius Anthoine	-	-	23	Anthony.
24. John Albert	-	-	24	
25. Joseph Rison	-	-	25	de Raison.
26. Peter Borrell	-	-	26	Borel.
27. Abraham Delzanne	-	-	—	

Signed Thomas Satur, Minister, and John Braguier, Churchwarden. *Dated* eod. die. *Attested* by Lewis Delafaye and Peter Masson.

(a²) 21 March. On 5 March 1698-9, at the German Lutheran Church of St. Mary le Savoy :—

1. Michael Gechter - - No. 27 in Act, Geghter.
2. Christopher Scriber - „ 28 „ Schriber.

Gentlemen of his Majesty's first troop of Guards. *Signed* Irenæus Crusius, Minister, William Baker, George Russeler, Churchwardens. *Dated* eod. die. *Attested* by John Stevenson and John Weekley. [Read in Committee this day. Com. Book.]

(a³) . On 5 March 1698-9, at the French Church in the Savoy :—

John Narbonne - - No. 29 in Act.

Signed Thomas Satur, Minister, John Braguier, Churchwarden. *Dated* eod. die. *Attested* by Lewis Delafaye and Peter Masson.

(O. 1.)

A a

1698-9. (a⁴) . On 5 March 1698-9, at the French Church in
— the Savoy :—

No. 1396.	1. Eliaz Morel	-	No. 30 in Act,	Elias.
	2. Daniel de Lauriere	-	„ 35 „	Delauriere.
	3. Martin Sadier	-	„ 31 „	Sadiere.
	4. Isaac Vilar	-	„ 37 „	Villars.
	5. James Sackville	-	„ 44 „	
	6. Martin Granprey	-	—	
	7. Samuel Meulh	-	„ 53 „	
	8. John Martheille	-	„ 43 „	
	9. James Le Francois	-	„ 46 „	
	10. Robert Vanriel	-	„ 47 „	Vanrielle.
	11. Isaac D'Agar	-	„ 36 „	Dagar.
	12. James Basiere Gorde	-	„ 38 „	James Bas- sierre.
	13. Rudolf Shwob	-	„ 45 „	Rodolphe “Swebb or Swobb.”
	14. Anthony Monier	-	„ 41 „	Moniere.
	15. Arnout Floyd	-	„ 48 „	Armatus Floyde.
	16. David de Grave	-	„ 33 „	Degrave.
	17. Charles Pels	-	„ 34 „	
	18. James Moulian	-	„ 40 „	Moullian.
	19. Samuel Grandprey	-	„ 32 „	
	20. Peter Lacarriere	-	„ 49 „	La Carriere.
	21. John Perreaux	-	„ 42 „	
	22. Bartholomew Batturst	-	„ 39 „	Bathurst.
	23. John Martin	-	„ 51 „	
	24. Anthony Bartlemy	-	„ 53 „	Barthelmy.

Signed and dated as in (a³). Attested by Peter Masson and Lewis Delafaye.

(a⁵) 21 March. On 5 March 1698-9, at the German Lutheran Church of St. Mary-le-Savoy :—

1. John Conrad Richter	-	No. 55 in Act,	John Cou- raid Richter.
2. John Godfried Ernst	-	No. 54 in Act,	John God- frett “or Godfreet,” only.
3. Francis Henry Köster	-	No. 56 in Act,	Francis Hendrick Kester.
4. Conrad Werneck	-	No. 50 in Act,	Conriard.

All Gentlemen of his Majesty's second troop of Guards, commanded by his Grace the Duke of Ormonde. *Signed* Irenæus Crusius, M.A., Minister, William Baker, George Russeler, Churchwardens. *Dated* eod. die. *Attested* by John Stevenson and John Weekly. [Signs as Weekly in (a²) above.] [Read in Committee this day. Com. Book.]

(a⁶) . On 12 March 1698-9, at the Parish Church of St. Martin's, Westminster :—

John Saint Amant - No. 57 in Act, St. Amant.

Signed Tho. Yates, A.M., Curate, Fra. Boteler, Churchwarden. *Dated* eod. die. *Attested* by Jeremiah Crowther and William Hawkins.

(a⁷) . On 5 March 1698-9, at the French Church in the Savoy — 1698-9.

1. Alexander Siegler	-	-	No. 59 in Act, Seigler.	No. 1396.
2. Esaye Robin	-	-	" 62 "	Esajas.
3. Isaac Valmont	-	-	" 63 "	"Valmont or Valmond."
4. Michael Moisson	-	-	" 79 "	
5. John Bargean	-	-	" 72 "	
6. Abraham De la font	-	-	" 66 "	Lafont.
7. Henry Miget	-	-	" 60 "	
8. Lewis Compart	-	-	" 70 "	Lovis Com- paire.
9. Cyrus Rivers	-	-	" 77 "	
10. Samuel Rivers	-	-	" 78 "	
11. Stephen Vialettes	-	-	" 65 "	Vialette.
12. John de Cassall	-	-	" 64 "	John Cassall.
13. John Rouillé	-	-	" 73 "	Le Rovillié.
14. Solomon Gonsal	-	-	" 75 "	Gonsalt.
15. Benjamin Duplessis	-	-	" 87 "	
16. James Feillet	-	-	" 63 "	Feilliet.
17. Adrian Chardellou	-	-	" 67 "	Chardeloe.
18. Claudius Royer	-	-	" 69 "	Claude Roger.
19. Nicholas De Neville	-	-	" 74 "	Nicholas Ne- ville.
20. Jacob Du Barry	-	-	" 76 "	
21. John Hauteclair	-	-	" 86 "	Hauteclair.
22. Daniel Richard	-	-	" 88 "	
23. Stephen Loeff	-	-	" 82 "	Stephanus Loeffe.
24. John Genatz	-	-	" 80 "	John De Genats.
25. Anthony Hardevelt	-	-	" 81 "	Hardenelt.
26. John White	-	-	" 83 "	
27. Gabriel De Hauteville	-	-	" 89 "	
28. Jeremiah Laujol	-	-		
29. James Molinier	-	-	" 84 "	Molinior.
30. Peter Varnier	-	-	" 71 "	Varniere.
31. Peter Miget	-	-	" 61 "	
32. Dirck Brillenson	-	-	" 96 "	Deric William- son.

Signed Thomas Satur, Minister, John Braguier, Churchwarden.

Dated eod. die. *Attested* by Peter Masson and Lewis Delafaye.

(a⁸) 21 March. On 5 March 1698-9, at the Parish Church of St. Margaret's, Westminster:—

Cornelius Vandenendo - No. 85 in Act.

Signed N. Onley, D.D., Minister, Emdas Anguis, Churchwarden. *Dated* eod. die. *Attested* by William Canning and Henry Roberts. [Read in Committee this day. Com. Book.]

(a⁹) 21 March. On 19 March 1698-9, at the Parish Church of St. Martin's, Westminster:—

John Bourgeois - No. 90 in Act.

Signed Tho. Yates, A.M., Curate, Fra. Boteler, Churchwarden. *Dated* eod. die. *Attested* by Matthew Latour and Thomas Kirkpatrick. [Read in Committee this day. Com. Book.]

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(*a*¹⁰) 21 March. On 19 March 1698-9, at the Parish Church of St. Martin's, Westminster:—

John De Roche - No. 91 in Act, Des Roches. [Signs
Jean Des Roches. *See* (*a*¹²).]

Attested by Henry Miget and Isaac Pillon. Rest as in (*a*⁹).
[Read in Committee this day. Com. Book].

(*a*¹¹) 21 March. On 19 March 1698-9, at Trinity Chapel, Westminster:—

1. Charles Babel - - No. 94 in Act, Babel.
2. Simon Trapman - - „ 93 „
3. Andrew Touse - - „ 92 „

Signed Wm. Strengfellow, Minister. *Dated* eod. die. *Attested* by Peter Dericard and Edward Hopkins, who sign the attestation, though George Pallfred purports to attest the certificate. [These three names were added to the Bill in Committee this day. Com. Book].

(*a*¹²) 21 March. On 19 March at the Parish Church of St. Martin's, Westminster:—

Isaac Pillon - - - No. 58 in Act, Pilon.

Signed as in (*a*⁹). *Dated* eod. die. *Attested* by Henry Miget and Jean Des Roches. [Read in Committee this day. Com. Book.]

(*a*¹³) 29 April 1699. Anthony Kidwell. On 26 March 1698-9 at the Parish Church of St. Martin's, Westminster. *Dated* eod. die. *Signed* as in (*a*⁹). *Attested* by James Gordon and William Hawkins. [Kidwell was added to the Bill by the Lords this day, on its being returned from the Commons with Amendments. MS. Min. L. J., XVI. 457.]

(*a*¹⁴) Certificate that Isaac Pillon and John des Roches, both sick, received the Sacrament privately in their Chamber on the 11th of March 1698-9. *Signed* Peter Fleury, French Minister and Chaplain of my Lady Shelborne, Gabriel de Hauteville, Churchwarden of the French Church of Barriuk Street, Soho, Henry Miget. *Attested* by John Rondeau. *Certified* by the Minister of the French Savoy.

(*a*¹⁵) 21 March. Lords' Amendments to the Bill.

(*a*¹⁶) Muster-Rolls.

List of the Aliens riding in his Majesty's First Troop of Guards, under the command of the Right Honble. the Earl of Scarbrough, with the time of their Service in England.

No.	Names.	Time of Service in the Guards.	Time of Service in other Regiments.
4	*John Rondeau - -	17 years -	—
5	*Peter Phillipon - -	16 „ -	—
6	*Abel Rostan - -	12 „ -	—
7	*James Chitron - -	13 „ -	—
1	*Samuel Bernardeau - -	11 „ -	—
2	*Peter Desgaudrée - -	10 „ -	And two years in the Light Horse.
8	*David Baudeson - -	10 „ -	—

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No.	Names.	Time of Service in the Guards.	Time of Service in other Regiments.
3	†John Hamilton - -	7 years -	—
9	†James Mallortie - -	8 „ -	—
	*Peter Bishop - -	8 „ -	And three years in the Light Horse.
10	†John Vergnol - -	8 „ -	And five years in the Light Horse.
11	†Gabriel Varengeville -	8 „ -	And five years in the Light Horse.
12	†Jeremie Thomassin -	7 „ -	—
13	†Philippe Gulick „ -	10 „ -	And two years in the Yeomen of the Guards.
14	†Renaud De Comarque -	7 „ -	—
15	†Peter John - -	7 „ -	And two years in the Light Horse.
16	†James du Plessis - -	5 „ -	And five years in the Light Horse.
17	†Samuel Redard - -	6 „ -	And five years in the Light Horse.
18	†Noah Regnaud - -	7 „ -	And two years in the Light Horse.
19	†Louis Bernardeau - -	4 „ -	—
20	†Peter Van Haren - -	3 „ -	—
21	†Abraham Perdrian - -	7 „ -	—
22	†John Tostain - -	5 „ -	And six years in the Light Horse.
23	†Cornelius Anthony - -	3 „ -	And seven years in the Light Horse.
24	†John Albert - -	7 „ -	And five years in the Light Horse.
25	†Joseph Rison - -	6 „ -	—
27	††Michael Geghter - -	10 „ -	—
26	†Pierre Borel - -	3 „ -	And three years in the Foot Guards.
28	††Christopher Schryber -	1 „ -	And nine years in the Light Horse.
29	†Narbonne - -	Pensioner -	—

* Noted: Sick. His name was left out of Bernardeau's Bill. Noted: On Second List not worn.

† On Bernardeau's Naturalization Act.

†† Noted: Witnesses not sworn.

(a¹⁷) Another List of the First Troop. Differs from previous List in giving only the names. Adds to names in that List the following:—

Peter Godde.	Peter de la Feuiltrie.
Abraham Delzaune.	Samson Bellifon.
Laurence Van Hachten.	Henry Vine.
Samuel Masse.	John Mozett.
Peter Morin.	James Debordes.

(a¹⁸) Foreigners in his Majesty's Second troop of Guards:—

No. 38. § James Bassiere.	No. 52. § Mewle [Meulh].
No. 39. § Bathurst.	No. 41. § Moniere.
No. 35. § Delauriere.	No. 47. § Vanriele.
No. 36. § Dagar.	Guerrard.
No. 33. § Degrave.	Laccariere.

§ On Bernardeau's Naturalization Act.

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No. 32. † Grandprey.	No. 44. † Sackville [Sackville]. ‡‡ Dabadie.
No. 30. † Morrell [Morel].	No. 40. † Moulian [Moullian].
No. 34. † Pelee [Pels].	No. 45. † Swobb.
No. 31. † Sadiere.	No. 50. † Werniek.
No. 37. † Villers [Villars].	No. 56. † Kester, kettle-drum.
No. 46. † François.	No. 55. † Righter
No. 48. † Floyd [Floyde].	No. 54. † Godfrey
No. 51. † Martine [Martin].	[Godfreer] } Trumpets.
* Pomie.	No. 57. † St. Amant
No. 43 † Martheley [Martheille].	No. 42. † Perreaux.
	No. 53. † Anthony Bartholomew.

(a¹⁹) Another List of the Second Troop. Differs from previous list in giving the Christian, as well as the surnames, which are spelt also more correctly, and in omitting the name of Pomie and adding the following :—

Marck Antony Denajac,
Stephen Cadroy,
Salomon Balmier,
Gabriel Delalande,
Jacob Dabaddie,
John Dabaddie. *Noted* : Not sworn ;

and also in giving the names of two Granpreys (Samuel and Martin), instead of only one.

(a²⁰) List of the time that the following Gentlemen have served in my Lord Rivers's troop :—

- No. 59. † Alexander Seigler, 13 years.
- No. 60. † Henry Miget, 13 years.
- No. 62. † Robin, 10 years.
- No. 63. † Valmont, 10 years.
- No. 66. † Lafont, 10 years.
- No. 65. † Vialette, 10 years.
- No. 64. † Cassall, 10 years.
- No. 70. † Campar [Compaire in Act], 9 years.
- No. 72. † Bargeau, 8 years.
- No. 67. † Chardelou [Chardeloe], 8 years.
- No. 69. † Claude Roger, 8 years.
Daniel Richard, 8 years.
- No. 74. † Neville, 7 years.
- No. 73. † Rouilleé [Rovillié], 7 years.
Feilliette, 7 years, In the Light Horse 4 years.
- No. 71. † Varnier [Varniere], 7 years. In the Light Horse 2 years.
- No. 61. † Peter Miget, 7 years. In the Light Horse 3 years.
- No. 79. † Moisson, 6 years. In the Light Horse 4 years.
- No. 77. † Cyrus Rivers, 6 years. In the Light Horse 3 years.
- No. 76. † Dubarry, 6 years. In the Light Horse 4 years.
- No. 82. † Loeff, 6 years. In the Light Horse 2 years.
- No. 80. † Genats, 6 years. In the Foot 2 years.

* *Noted* : Not here.

† Bernardean's Naturalization Act.

‡ Struck through. See next List.

- No. 75. Gonsalt, 5 years. In the Grenadiers 4 years. 1698-9.
 No. 78. * Samuel Rivers. 5 years. In the Grenadiers —
 6 years. No. 1396.
 No. 81. * Hardevelt, 4 years.
 No. 84. * Molinier. Has entered since 8 months, but his
 father died in the King's service, and has been
 all the War in the troop.
 No. 86. * John Hauteclair, 27 years.
 No. 58. * †Pilon, 15 years.
 No. 87. * Duplessis, 38 years.
 Bourgeois, 25 years.
 Hauteville, 18 years.
 †De Roches, 24 years.
 Langol. Has been 10 years in the troop.
 *‡Cornelius Vandenando, kettle-drum.
 Derick Williamson.
 John White.

(a²¹) List of the Gentlemen in the Third Troop of his Majesty's Horse Guards [Lord Rivers's Troop] to be naturalized. Differs from previous List in giving the Christian, as well as surnames, which are also more correctly spelt, and in adding the name of Henry Rajoux.

1397. March 10. Bull's Estate Act.—Amended Draft of an Act to enable John Bull, an Infant, to sell his lands in Kent for the payment of debts and annuities charged thereon, and for provision of younger children. The amendments are of a formal character. There was one drafting Amendment in the Commons. [Read 1^a this day. Royal Assent 4 May. L. J., XVI. 398, 465. 11 Will. III. c. 66 in Long Cal.]

Annexed:—

(a) 4 April 1699. Minutes of proceedings in Committee this day on the Bill, viz. :

Die Martis 4 Aprilis 1699. Bull's Committee. L. Jeffreys.

The Bill read paragraph by paragraph.

Mary Bull, mother, consents.

Mrs. Miller's consent read and attested.

Mr. Nowers says he saw Mary Bull, grandmother, sign her consent.

Ordered to report with amendments.

[The Com. Book contains no entry of any proceedings on this Bill.]

(b) 4 April. Consent of Mary Bull to the passing of the Bill. Dated 20 March 1698-9. Attested by John Nowers and Thomas Ycung. [See preceding paper.]

(c) 4 April. Consent of Elizabeth Miller. Dated 27 March 1699. Attested by John Nowers and Samuel Johnson. (Annex (a) above.)

(d) 4 April. Lords' Amendments to the Bill. [Made in Committee and reported this day. (See Annex (a) above.) L. J., XVI. 433.]

* Bernardea's Naturalization Act.

† Noted : Took the Sacrament in his chamber.

‡ Noted : His witnesses not sworn.

1698-9. 1398. March 10. Lloyd's Naturalization Act.—Certificates that the following persons (named in the Act) have received the Sacrament, according to the usage of the Church of England, viz^t:—

- (1.) William Lloyd, Junior, of the Parish of St. Andrew's, Holborn, on 29 Jan. 1698-9, at the Parish Church of St. Andrew's, Holborn. *Signed* T. Manningham, D.D., Minister, Fran. Higgins, Churchwarden. *Dated* eod. die. *Attested* by John Liard and Claudius Linderott, both of the Parish of St. Paul's, Covent Garden.
- (2.) Cornelius De Wit [spelt Wittson in the Act]. Date, place, signatures as in preceding.
- (3.) Godfrey Lloyd, on 19 Feb. 1698-9 at the Parish Church of St. Martin's, Westminster. *Signed* Tho. Yates, M.A., Curate, Fra. Boteler, Churchwarden. *Dated* eod. die. *Attested* by John Incedon and Valentine Mander.

[Read in Committee this day. Com. Book. The Bill was brought from the Commons on 2 March. Royal Assent 24 March. L. J., XVI. 394, 416. 11 Will. III. c. 16 in Long Cal.]

1399. March 13. Defective 'Titles (Concealments &c.) Bill.—Petition of the Lord Mayor, Aldermen and Common Council of the City of London. Several Kings and Queens have at various times, for great sums of money lent and paid to them by Petitioners' predecessors and other valuable considerations, granted and conveyed to them and to others in trust for them divers lands &c. In the Great Fire in 1666 Petitioners' rentals and evidences relating to the premises were burned or lost, and a great part of their estate has ever since been concealed, but part thereof Petitioners have lately discovered, and are advised by their Counsel may be recovered at law. The Bill now pending in the House of Lords, entitled a Bill for the general Quiet of the Subject against all pretence of concealments, encroachments or other defective titles will foreclose Petitioners from the recovery of any part of the estate concealed from them. Pray that a Proviso may be added saving to Petitioners such remedy for the recovery of the estate concealed as they now have. *Signed* Goodfellow. *Endorsed* as read this day. L. J., XVI. 399. [For the Bill and proceedings see No 1370.]

Annexed:—

- (a) 25 April 1699. Petition of Francis Gell, Esq. Petitioner has a lease from the Crown of several derelict lands in the County of Flint, which he has spent great sums in improving. Prays to be heard by Counsel before the Bill passes, as the same affects his property. [Read this day and Petitioner to be heard. L. J., XVI. 450.]
- (b) 28 April 1699. Petition of Robert Pellicon in behalf of himself and several others, executors or administrators of many creditors to King Charles I. His said Majesty in 1629 granted several manors and lands to trustees for the satisfaction of such creditors, under whom Petitioners claim 50,000*l.* and upwards, and the surplus to return to the Crown. The trustees, in abuse of their trust, granted those lands for small considerations to several persons privy to the trust, against whose heirs, in the reigns of Charles I., Charles II., James II., and his present Majesty, several proceedings have been made, some of which are now depending. The Bill, as now worded, would entirely debar Petitioners from any recovery, and leave the heirs of the fraudulent purchasers to enjoy the estates. Pray to be heard

by Counsel against the Bill. *Signed* by Robert Pellieon only. 1698-9.
 [Read this day and rejected. L. J., XVI. 455.]

1400. March 13. Lordington *alias* Lurtington Manor Act.—Amended Draft of an Act for sale of the Manor of Lordington, *alias* Lurtington, and Whitwey and divers lands in the County of Sussex, and for laying out five thousand pounds in purchasing other lands to be settled in lieu thereof. The Amendments are principally of a drafting character. The Commons inserted in the Bill Henry Lumley's name instead of that of Sir William Blackett. [Read 1^a this day. Royal Assent 4 May. L. J., XVI. 400, 465. 11 Will. III. c. 63 in Long Cal.]

No. 1399.

1401. March 13. Forster's Estate Act.—Amended Draft of an Act for the confirming of a grant and settlement made by William Forster, Esquire, of divers manors and lands in the County Palatine of Durham and County of Northumberland to Thomas, Lord Fairfax, and others, upon certain trusts and uses therein mentioned. The principal Amendments in the Lords were the addition of the two Provisoes (Annexes (a) and (b) below) and the insertion of the names of Henry Lambton and Thomas Forster. The Commons inserted an Amendment as to the payment of interest upon the bond until the rent-charge should be sold. C. J., XII. 645. [Read 1^a this day. Royal Assent 4 May. L. J., XVI. 400, 465. 11 Will. III. c. 62 in Long Cal.]

Annexed :—

- (a) 3 April 1699. Lords' Amendments to the Bill. [Made in Committee 1 April, and reported this day. Com. Book. L. J., XVI. 432.]
- (b) 3 April. Proviso A, allowing Elizabeth Forster to receive an annuity of 350*l.*, after her husband's death, in preference of the yearly rent of 500*l.* [Added in Committee 1 April. Com. Book. Reported this day. L. J., XVI. 432.]
- (c) 3 April. Proviso B, authorising the trustees to discharge, out of the moneys raised by the sale of the rent-charge of 500*l.*, a bond entered into by William Forster for securing the fortune of Dorothy, his sister. [Added in Committee 1 April. Com. Book. Reported this day. L. J., XVI. 432.]

1402. March 13. Blackwell Hall Bill.—Petition of several of the Factors of Blackwell Hall, on behalf of themselves and the rest of the Factors there. The Bill for the making more effectual an Act intituled An Act to restore the Market of Blackwell Hall to the Clothiers and for regulating the Factors there will be the utter ruin of Petitioners. Pray to be heard by Counsel before the Bill pass. *Twenty-three signatures.* L. J., XVI. 400. [Read this day and Ordered to be heard by their Counsel on 20 March. See No. 1395.]

Annexed :—

- (a) 13 March. Petition of the Merchants and Woollen-Drapers, Dealers in the Woollen Manufacture at Blackwell Hall. The Bill will very much hinder the exportation and consumption of the Woollen Manufacture, and tend to the utter ruin of Petitioners' trade. Pray to be heard by Counsel before the Bill pass. *Ten signatures.* L. J., XVI. 400. [Read this day and Ordered to be heard by their Counsel on 20 March.]
- (b) 16 March. Petition of divers Clothiers of the County of Gloucester in behalf of themselves and divers others. Petitioners for many years have laboured under very severe and hard

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No. 1402.

usage from the Common Factors of Blackwell Hall, who have engrossed the entire sale of all the cloths manufactured by Petitioners and others into their own hands, without making that just account of sales they ought to have done. Pray that the Bill, which is absolutely necessary for the support of Petitioners and the woollen manufacturers in general, may pass. *Fifty-seven signatures.* *Endorsed* as read this day. MS. Min. No entry in L. J.

- (c) 20 March 1698-9. Petition of several Clothiers on behalf of themselves and many others. The Bill will tend to Petitioners' very great prejudice, by restraining them from their natural power and right as Englishmen to order the disposing of their cloth in such manner and under such terms and conditions as they shall think most for their own interest. Pray that their said right may be restored and preserved, and that they may be left free to commission their Factors to dispose of their cloth when and how they shall by special order direct. *Twenty-three signatures.* *Endorsed* as read this day. MS. Min. No entry in L. J.

1403. March 13. Chenevix Naturalization Act (31 names).—Certificates that the following persons (named in the Act) have received the Sacrament according to the usage of the Church of England:—

- (1.) Phillip Chenevix [Philip Le Chevenix in Act. Signs as Phillip Chevenix in (4.)], on 15 Jan. 1698-9, at the Parish Church of St. Martin's, Westminster. *Signed* Tho. Yates, A.M., Minister, Curate, Fra. Boteler, Churchwarden. *Dated* eod. die. *Attested* by Bartholomew Ogilvy and Paul Monginot Tronehay.
- (2.) Stephen St. Paul. *Attested* by Peter de Vaux and Daniel Bonemer. Rest as in (1.).
- (3.) Guy Morin. *Attested* by Remond Hensbergh and John Jullion. Rest as in (1.).
- (4.) Paul Monginot Tronehet [Tronehay in Act. Signs as Tronehay in (1.)]. *Attested* by Bartholomew Ogilvy and Phillip Chenevix. Rest as in (1.).
- (5.) John Julion [Jullion in Act]. *Attested* by Guy Morin and Remond Hensbergh. Rest as in (1.).
- (6.) Andrew Costard de Boismorel [de Boismorell in Act] on 22 Jan. 1698-9. *Dated* eod. die. *Attested* by Thomas Lehulle and James Bigot. Rest as in (1.).
- (7.) Claudius Testefolle, on 12 Feb. 1698-9. *Dated* eod. die. *Attested* by Steven St. Paul and Peter Devaux. Rest as in (1.).
- (8.) Henry de Folleville [so also in Act. Signs as Henry Folleville in (9.)], on 29 Jan. 1698-9. *Dated* eod. die. *Attested* by John du Tertre Decophan and James de Wibault. Rest as in (1.).
- (9.) James de Wibault. *Attested* by John du Tertre Decophan and Henry Folleville. Rest as in (8.).
- (10.) Thomas Lehulle [le Hulle in Act. Signs as Lehulle in (6.)]. *Attested* by Andrew Costard de Boismorel and James Bigot. Rest as in (6.).
- (11.) Theodore D'Agar [Dagar in Act. Signs as D'Agar in (12.)]. *Attested* by James Cornuaud and John Denty. Rest as in (6.).
- (12.) James Cornuaud [Cornnaud in Act. Signs as Cornuaud in (11.)]. *Attested* by Theodore D'Agar and John Denty. Rest as in (6.).

- (13.) Claudius Linderott, on 29 Jan. 1698-9, at the Parish Church of St. Andrew's, Holborn. *Signed* T. Manningham, D.D., Minister, Fran. Higgins, Churchwarden. *Dated* eod. die. *Attested* by John Liard, of St. Paul's, Covent Garden, and Cornelius De Witt. 1698-9.
—
No. 1403.
- (14.) Peter De Vaux [So also in Aet. Signs as Devaux in (7.)]. *Attested* by Steven St. Paul and Daniel Bonemer. Rest as in (1.).
- (15.) Abraham De Linron. *Attested* by Magnus Kempenfelt and James De Joye. Rest as in (8.).
- (16.) James De Joye. *Attested* by Abraham de Linron and Magnus Kempenfelt. Rest as in (8.).
- (17.) John Liard. *Attested* by Claudius Linderott, of the Parish of St. Giles', and Cornelius De Witt. Rest as in (13.).
- (18.) Sampson De La Lo, on 26 Feb. 1698-9, at the Parish Church of St. Martin's, Westminster. *Signed* Robert Grisedale, A.M., Curate, Fra. Boteler, Churchwarden. *Dated* eod. die. *Attested* by John Pureell and William Gill.
- (19.) Francis Brown [Browne in Act]. *Attested* by Daniel Crespin, John Person and Francis Naizon. Rest as in (13.).
- (20.) Daniel Crespin. *Attested* by Francis Naizon and Francis Brown. Rest as in (13.).
- (21.) John Francis De Saussure. *Attested* by Steven St. Paul and John Mauciere. Rest as in (1.).
- (22.) Cutts Hassan, on 5 Feb. 1698-9. *Dated* eod. die. *Attested* by William Dornell and John Hill. Rest as in (1.).
- (23.) John James Dabbadie. *Attested* by Timothy Regans and John Ramsey. Rest as in (13.).
- (24.) James Baudomin, on 29 Jan 1698-9, at the French Church of the Savoy. *Signed* Thomas Satur, Minister, Abraham De Mombrays, Churchwarden. *Dated* eod. die. *Attested* by Anthony Hardevelt, Jean Bourgeois and James Molinier.
- (25.) Henry Maselary. *Attested* by John Weekley and John Boulton. Rest as in (7.).
- (26.) Anthony Pujolas. *Attested* by Josias Champagne and Revixit Van Vaerssen. Rest as in (8.).
- (27.) Dennis Pujolas. *Attested* by Jeffrey De Culant and Anthony Villeneuve. Rest as in (8.).
- (28.) Henry Desaulnais [de Saulnais in Aet]. *Attested* by Robert Gough and Joseph Ferrers. Rest as in (22.).
- (29.) Anthony Villeneuve [Signs as Villeneuve in (27.)]. *Attested* by Jeffrey De Culant and Denis Pujolas. Rest as in (8.).
- (30.) Jeffrey De Culant. *Attested* by Anthony Villeneuve and Denis Pujolas. Rest as in (8.).
- (31.) Magnus Kempenfelt. *Attested* by Abraham De Linron and James De Joye. Rest as in (8.).

[Read in Committee this day. Com. Book. The certificate of De La Lo was produced in Committee on 14 March. Com. Book.

The Bill was brought from the Commons on 6 March. Royal Assent 24 March. L. J., XVI, 395, 416. 11 Will. III. c. 22 in Long Cal.]

Annexed:—

- (a) Naturalization.—List of 51 names. [Evidently a list of persons sworn as witnesses to Certificates of persons proposed to be naturalized in this Bill and in Bernardeau's Naturalization Bill (No. 1396).]

1698-9. 1404. March 13. Naturalization Act (Gouyquett de St. Eloy).—
 — Certificate that Isaac Gouyquet de St. Eloy received the Sacrament,
 No. 1404. according to the usage of the Church of England, on 5 Feb. 1698-9,
 at the Church of the French Savoy. *Dated* eod. die. *Signed* Thomas
 Satur, Minister, James Debat, Churchwarden. *Attested* by Daniel
 Brisac and Elias Neau. [Read this day in Committee. Com. Book.
 The Bill was brought from the Commons on 2 March. Royal Assent
 24 March. L. J., XVI. 394, 416. 11 Will. III. c. 17 in Long Cal.]

1405. March 14. Evelyn's Estate Bill.—Draft of an Act for
 establishing a settlement made by George Evelyn, Esquire, of his estate,
 and for securing the same to his own right heirs, after the decease of
 John Evelyn the father, John Evelyn the son, and John Evelyn the
 grandson, without issue male. For contents see Annex (a) below.
 [Read 1^a this day. L.J., XVI. 402. On 16 March it was Ordered that
 John Evelyn and others who had petitioned should be heard against the
 Bill. *Ib.* 406. The Hearing was put off on 22 March. *Ib.* 411. No
 further proceedings took place at this time.]

Annexed:—

(a) 14 March. Abstract of the Bill, as follows:—That George
 Evelyn, Esq., out of his love and affection to his brother John
 Evelyn, Esq.,* and John, his son (who was indebted 4,000*l.*),
 and at their request consented to charge his manor of Wotton
 and all other his manors and lands in Surrey and Sussex after
 his own decease with the raising of the said 4000*l.* debt, and did
 also voluntarily, by Indenture (dated 3 June 4 W. and M.) and
 Fine settle his said estate in manner following, viz., to himself
 for life, without impeachment of waste, with remainder to Sir
 John Arundell and William Glanvill for 1,000 years, without
 impeachment of waste, redeemable on payment of the said 4,000*l.*,
 with interest, remainder to John Evelyn the father and John
 Evelyn the son in tail male, with remainder to the said George
 Evelyn and his heirs. That George Evelyn never intended that
 John, the father, or John, the son, should have power to bar, nor
 ever mistrusted they would offer to bar the entail limited to
 their own issue male, or the reversion to George and his heirs,
 which he had special regard to secure to himself and them, for
 that he then had and still has grand-daughters, the daughters of
 his eldest son, deceased, for whom he was bound to provide
 after failure of issue male. That George being advertised that
 John, the father, and John, the son, intended after his decease to
 suffer a common recovery to bar the estates tail and reversion in
 fee. To prevent which, and to secure the estate to the heirs
 male of the body of John, the father, John, the son, and John,
 the grandson, and, in default thereof to the right heirs of
 George, according to this true intention, it is enacted that the
 said estate, and the said Indenture and Fine comprised, shall
 remain and be to and for the uses and according to the estates
 and under the Provisoos in the same Indenture mentioned and
 declared, which are thereby ratified and confirmed. And further
 that no fine, feoffment, recovery or any other conveyance,
 assurance, matter or thing heretofore or at any time hereafter

* The celebrated John Evelyn. Brayley and Britton's Hist. of Surrey V. 21.

made, done levied, suffered or executed by John, the father, John, the son, or either of them, or John, the grandson, shall bar or discontinue either of the estates tail or the remainder in fee in and by the said Fine and Indenture limited or created, but that every person shall have and enjoy the same, according to the limitations of the said Deed and Fine, as if no such fine, feoffment, recovery or other matter or thing had been made or done by John, the father, John, the son, and John, the grandson, or either of them. A Proviso that nothing shall hinder John, the father, John, the son, and John, the grandson, or either of them, from disposing of any of the said manors and lands (except the manors of Wotton and Abinger) for raising money to pay the said 4,000*l.* debt and 5,500*l.* charged on the said estate for George's three grand-daughters. A Proviso for them to make a jointure of any part of the manors of Wotton and Abinger not exceeding in the whole the yearly value of (*blank*) to any wife for life, and also to make leases in possession for 21 years at the old accustomed yearly rent. A saving to the King and all other persons, bodies politic and corporate, (other than John, the father, John, the son, and John, the grandson, and all claiming under them), all such right as they had and may have if the Act had not been made.

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- (b) 16 March. Petition of John Evelyn, of Say's Court in the County of Kent, Esquire, John Evelyn, Esq., his son, and John Evelyn, his grandson. Petitioners have several reasons to offer against the Bill, which, if it pass, will be very much to their prejudice. Pray to be heard by Counsel against the Bill, before it is read a second time. *Endorsed* as read this day, L. J., XVI. 406.

1406. March 14. Lower's Naturalization Act.—Certificates that the following persons (named in the Act) have received the Sacrament according to the usage of the Church of England, viz. :—

- (1.) William Lower, on 19 Feb. 1698-9, at the Parish Church of St. Martin's, Westminster. *Signed*, Tho. Yates, A.M., Curate, Fra. Boteler, Churchwarden. *Dated* eod. die. *Attested* by Capt. Peter Godbey and William Dornell.
- (2.) William Dornell, on 5 Feb. 1698-9, at the same Church. *Signed* as preceding. *Dated* eod. die. *Attested* by Cutts Hassan and John Hill.
- (3.) Capt. Peter Godbey [Godby in Act]. *Attested* by Major William Lower and William Dornell. Rest as in (1.).

[Read in Committee this day. Com. Book. The Bill was brought from the Commons on 10 March. Royal Assent 24 March. L. J., XVI. 398, 416. 11 Will. III. c. 23 in Long Cal.]

1407. March 14. Weslyd's Estate Act.—Amended Draft of an Act for the enabling Cyriac Weslyd, Esquire, to sell some part of his estate, which by articles upon his marriage was agreed to be settled upon his wife and children, and for the settling of other part of his estate of better value to the same uses. The Amendment in the Lords is purely clerical. There were no amendments in the Commons. [Read 1^a this day. Royal Assent 4 May. L. J., XVI. 403, 466. 11 Will. III. c. 70 in Long Cal.]

1698-9. Annexed :—

No. 1408. (a) 1 April 1699. Lords' Amendment to the Bill. [Made in Committee and reported this day. Com. Book. L. J., XVI. 430.]

1408. March 14. *Todd v. Eden*.—Consent of Robert Eden, Respondent, to the withdrawal of the Appeal, the whole matter being referred to Sir Robert Eden, Respondent's brother. *Dated* 14 March 1698-9. *Signed* Robt. Eden, Jam. Allen, Solicitor for the Appellant. L. J., XVI. 403. [The Petition was brought in on 4 Feb. *Ib.* 374.]

1409. March 15. Burnett's Naturalization Act.—Certificate that Capt. George Burnett received the Sacrament, according to the usage of the Church of England, on 12 Feb. 1698-9, at the Parish Church of St. Andrew's, Holborn. *Signed* T. Manningham D.D., Minister, Fran. Higgins, Churchwarden. *Dated* 1 March 1698-9. *Attested* by John Cooke, of the said Parish, and Thomas Benwell. [Read in Committee this day. Com. Book. The Bill was brought from the Commons on 6 March. Royal Assent 24 March. L. J., XVI. 395, 416. 11 Will. III. c. 25 in Long Cal.]

1410. March 16. House of Commons (Officers) Bill.—Commons' Engrossment of an Act to restrain the number of Officers sitting in the House of Commons.

§ i. To the end the proceedings in Parliament may be free and impartial, Be it enacted &c. That from and after the five and twentieth day of March in the year of our Lord one thousand, six hundred, ninety nine, no person shall be capable to be elected knight, citizen, burgess, or baron for any county, city, borough, town, Cinque port or place within this realm, to serve or act in this present or any Parliament hereafter to be holden, who, at the time of the issuing out the writ or writs for election of members to serve in such Parliament, or at any time afterwards during the continuance of the same Parliament, shall in his own name, or in the name of any person or persons in trust for him and for his benefit, be possessed of, or lawfully intituled to, any office, place or employment of profit, civil or military, or receive any salary, fee, pension, wages or pay by reason of such place, office or employment from the King's Majesty or any of his predecessors, Kings or Queens of England, or by any gift or grant of any office, pension or place, by warrant or authority from the King's Majesty, his heirs or successors, or by any authority derived from him or them, other than and except the offices, places and employments hereinafter mentioned to be excepted, that is to say : Provided always and be it enacted, That nothing in this Act contained shall extend to the Lords Commissioners for executing the offices of Lord High Treasurer of England or Lord High Admiral of England, not exceeding the number of five in each respective Commission, nor to the members of his Majesty's Most Honourable Privy Council, sworn and acting as Privy Councillors, nor to the principal Secretaries of State for the time being, the Chancellor and Under-Treasurer of his Majesty's Exchequer for the time being, the Master of the Ordnance for the time being, the Lieutenant of the Ordnance, the Treasurer of the Ordnance for the time being, the three principal Flag Officers of the Fleet for the time being, the Treasurer of the Navy for the time being, the Surveyor of the Navy for the time being, nor to any General Officers in the late Army who were natives of England and actually served under his Majesty in the late wars as General Officers,

nor to the Officers in the Militia of this Kingdom for or in respect of such office only, nor to his Majesty's Attorney-General or Solicitor-General for the time being, nor to the present Secretary of the Treasury, nor to the first Commissioners in the several and respective Commissions for managing the Revenue of the Customs and Excise, nor to the Officers of any city, borough, corporation or town corporate for or in respect of such office or place only, but that they and every of them so excepted shall and may be elected, and sit and vote in Parliament, anything herein-contained to the contrary thereof in any wise notwithstanding.

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§ ii. Provided also that nothing in this Act contained shall be construed to extend to any office of inheritance, or to any office, place, or employment granted for life or lives, or *quamdiu se bene gesserit*, such office, place, or employment having been usually so granted by the space of thirty years now last past, nor to any office, place, or employment, the fee or salary whereof, with the usual perquisites belonging and incident thereunto, do not exceed the sum of forty pounds yearly, and so as the person enjoying such office, place, or employment hath in his own right lands of freehold or inheritance within this Kingdom of England of the clear yearly value of five hundred pounds.

§ iii. Provided always, and it is hereby declared and enacted by the authority aforesaid, that nothing in this Act contained shall extend or be deemed, construed or taken to extend to disable or disqualify any Commission Officer or Officers who receive half-pay for having served in the late war against France (in respect of such half-pay only) to be chosen a member of Parliament, anything hereinbefore contained to the contrary thereof in any wise notwithstanding. *Parchment Collection*. [Brought from the Commons this day. L. J., XVI. 406. Read 2^a and committed for 4 May, on which day Parliament was prorogued. *Ib.* 444.]

1411. March 19. Naturalization. — Certificate of date that the following persons received the Sacrament, according to the usage of the Church of England, on 19 March 1698-9, at the Parish Church of St. Peter's, Cornhill, viz. :—

Isaac Du Castel.

*Henry Westerman. [No. 8 in Cloribus' Naturalization Act.]

*John Boyd. [No. 4 in ditto.]

*Aug. Cloribus. [No. 1 in ditto.]

William Retshouk.

Peter Fauconnier.

James Angillis.

*Peter Deschamps. [No. 10 in Cloribus' Naturalization Act.]

*John Girardot *alias* Girardot De 'Tillieux. [No. 3 in ditto.]

*Elias Helias *alias* De Rit. [No. 2 in ditto.]

*Henry Bertrand. [No. 5 in ditto.]

Cornelius Vandeput.

*William Portal. [No. 11 in Cloribus' Naturalization Act, as Portall.]

*Moses Thomas. [No. 12 in ditto.]

Signed Will. Beveridge, D.D., Minister, Tho. Manning, Churchwarden.
Signed also by John Gentrey and Edward Pollexphen.

* In Cloribus' Naturalization Act. See 17 April 1699.

1698-9. 1412. March 20. Savery's (Water raising Invention) Aet.—
 — Amended Draft of an Aet for the encouragement of a new Invention by
 No. 1412. Thomas Savery for raising water and occasioning motion to all sorts of
 mill-work by the impellent force of fire. The two Amendments of the
 Lords, as shown by the draft, are to allow Savery the sole use of his
 invention for "one and twenty" years, the number of years having
 originally been left blank. No amendments in the Commons. [Read
 1^a this day. Royal Assent 4 May. L. J., XVI. 407, 465. 11 Will.
 III. c. 61 in Long Cal. No entry of proceedings in Com. Book.]

1413. March 21. De Philiponeau's Naturalization Aet.—Certificates
 that the following persons (named in the Aet) have received the
 Sacrament according to the usage of the Church of England, viz:—

- (1.) John de Philiponeau, Sieur de Montargier, on 19 Feb. 1698-9
 at the Parish Church of St. Martin's, Westminster. *Signed*
 Tho. Yates, A.M., Curate, Minister of the Parish, Fra. Boteler,
 Churchwarden. *Dated* eod. die. *Attested* by Joseph Bennett
 and Isaac Eyme.
- (2.) Andrew Samzan [Samarzan in Aet], on 22 Jan. 1698-9.
Dated eod. die. *Attested* by Andrew Costard de Boismorel and
 James Bigot. Rest as in (1).
- (3.) Peter Boyer, on 19 Feb. 1698-9. *Dated* eod. die. *Attested*
 by Andrew Paneier and William Guyon. Rest as in (1).
- (4.) Capt. Isaac Eyme. *Attested* by John de Montargye and
 Joseph Bennett. Rest as in (1).
- (5.) Josias de Robilliard Champagne [Josiah de Robillard, Sieur
 de Champagne in Aet], on 29 Jan. 1698-9. *Dated* eod. die.
Attested by Anthony Pujolas and Revixit Van Vaerssen. Rest
 as in (1).
- (6.) John Du Tertre de Cophan [Decophan in Aet], on 29 Jan.
 1698-9. *Dated* eod. die. *Attested* by Henry de Folleville and
 James de Wibault. Rest as in (1).
- (7.) William Guyon. *Attested* by Andrew Paneier and Peter
 Boyer. Rest as in (1).
- (8.) Stephen de Lacoste [De la Cosse in Aet], on 5 Feb. 1698-9.
Dated eod. die. *Attested* by Jeremiah Crowther and James
 Bigot. Rest as in (1).
- (9.) Anthony Pierrepont, on 12 March 1698-9 at the Parish
 Church of St. Martin's, Westminster. *Signed* Tho. Yates, A.M.,
 Curate, Minister of the Parish, Fra. Boteler, Churchwarden.
Dated eod. die. *Attested* by Stephen Pierrepont and Peter
 Desgaudrée.
- (10.) Stephen Pierrepont. *Attested* by Anthony Pierrepont and
 Peter Desgaudrée. Rest as in (9).
- (11.) Sampson Bellafon (Bellafond in Aet]. *Attested* by John
 Vergnol and Arthur Colley. Rest as in (9).
- (12.) Henry Razoux [Razon in Aet, Razoux in (16)]. *Attested*
 by Marek-Anthony de Najac and Salomon Balmier. Rest as in
 (9).
- (13.) Henry Vine. *Attested* by James Chitron and Peter Miget.
 Rest as in (9).
- (14.) Laurenee Van Hachten. *Attested* by William Stevenage
 and Daniel Hearson. Rest as in (8).
- (15.) Martin Grandprey. [Certificate missing.]
- (16.) Solomon Balmier [Solomon also in Aet, Salomon in (12) and
 (17)]. *Attested* by Henry Razoux and Marek-Anthony de
 Najac. Rest as in (9).

(17.) Marck-Anthony de Najac [so in (16), Mark Anthony de Gineste de St. Najac in Aet]. *Attested* by Henry Razoux and Salomon Bahnier. Rest as in (9). 1698-9.
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(18.) John Preston, on 5 March 1698-9, at the Parish Church of St. Margaret's, Westminster. *Signed* N. Onley, D.D., Minister, Emdas Anguis, Churchwarden. *Attested* by John Conyers and Alexander Finn.

(19.) Peter Laroque, on 5 March 1698-9, at the Parish Church of St. Martin's, Westminster. *Signed* W. Lancaster, D.D., Minister, Fra. Boteler, Churchwarden. *Dated* eod. die. *Attested* by Bartholomew Arabin and Charles Guinebauld Lamilliere.

[Read in Committee this day, when various names were added to the Bill. Com. Book. Brought from the Commons 14 March. Royal Assent 24 March. L. J., XVI. 402, 416. 11 Will. III. c. 29 in Long Cal.]

1414. March 21. Cowslade's Estate Aet.—Amended Draft of an Act for selling divers freehold and leasehold houses, the estate of Thomas Cowslade, an Infant, and others, to discharge a mortgage and to purchase other lands to be settled to the like uses. The Amendments made by the Lords are mainly of a formal character. No Amendments in the Commons. [Read 1^a this day. Royal Assent 4 May. L. J., XVI. 410, 465. 11 Will. III. c. 68 in Long Cal.]

Annexed:—

(a) 18 April 1699. Copy Letters of Administration to Arthur Squire. *Dated* Nov. 1694. *Signed* Tho. Welham, Reg. Dep. [Read in Committee this day. Com. Book.]

(b) 18 April. Lords' Amendments to the Bill. [Made in Committee April 6 and 18 and reported this day. Com. Book. L. J., XVI. 442.]

1415. March 22. Deal Water Supply Bill.—Draft of an Act for bringing fresh water into the town of Deal, in the County of Kent.

The Bill recites the necessity of a water supply for the inhabitants of Deal, and for the shipping in the Downs. The proposed water supply would also encourage the woollen and other manufactures at Deal. William Warner of London has at great charges discovered suitable water and has been requested by inhabitants of Deal and captains of ships to undertake the supply. The Bill gives power to Warner to enter upon lands and lay mains, &c., compensation being made to the owners for damage caused before the ground is entered upon. The ground is not to be disturbed more than is necessary and is to be made good afterwards. When the compensation has been paid no owner is to interfere with Warner's workmen under penalty of a fine.

[The Bill was read 1^a on 22 March. On 29 March the House was moved to hear the Archbishop of Canterbury before 2nd reading of the Bill, and Ordered him and any other persons concerned to be heard. MS. Min. It was read 2^a and rejected on 12 April. L. J., XVI. 412, 435. Compare the Act 12 Will. III. c. 22 in Long Cal.]

Annexed:—

(a) 24 March. Petition of the Deputy Mayor and other the inhabitants of the town of Deal in the County of Kent. Petitioners are sensible of the great pains and charges which William Warner, Gent., named in the Bill as Undertaker, has been at, in furnishing the town with fresh water, and that the water intended for this purpose is very good and wholesome, and sufficient for the town and also for supplying his Majesty's and

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all other ships riding in the Downs Pray that the Bill may pass. *Signed* by John Mumbray, Deputy Mayor, and 39 others.

1416. March 22. Wilson (pauper) *v.* Monoux. Petition and Appeal of Jane Wilson, widow. Appellant's father, Edmond Wingate, or her mother Elizabeth, daughter of Richard Button, possessed an estate in Wootton Pillage, Marston and Kempston, Bedfordshire, consisting of the manors of Studleys and Cannons, and other manors, &c. On the death of her parents and her elder brother the property came to Roger Wingate, Appellant's younger brother, who settled it upon her. At his death Appellant, not knowing where the deeds relating to the estate were, asked Respondents, who were in possession under mortgages or assignments, that her counsel might peruse the deeds, but they refused, and she therefore brought her Bill in Chancery to compel production, but Mr. Justice Tnrton ordered her Bill to be dismissed, and that she should take her remedy at common law. At the making of this decree the Appellant was sick and languished a long time after in bed without any hopes of recovery, and the Respondents, taking advantage of her sickness, got the decree enrolled, so that she cannot obtain a re-hearing. Appeals against the decree. *Signed* by Appellant. *Countersigned* Sa: Sh: Broughton, John Saunders. L. J., XVI. 412. [The Appeal was heard and dismissed on 25 April 1699, when *Mr. Serjt. Wright* appeared for Appellant, and *Sir Thomas Powys* and *Mr. Filmer* for Respondents. MS. Min. L. J., XVI. 450.]

Annexed:—

(a) 20 April 1699. Answer of Lewis Monoux, one of the Respondents. Appellant's Bill was dismissed by Mr. Justice Powell, she making default at the Hearing. She afterwards petitioned for and obtained a re-hearing, when Mr. Justice Tnrton confirmed the previous Order of dismissal. The Order is just and equitable and Respondent hopes the Appeal will be dismissed with costs. *Signed* Tho: Filmer. *Endorsed* as brought in this day.

1417. March 22. Wool Exportation (Prohibition) Act.—Account of the Commissioners for Trade relating to the Woollen Manufacture in Ireland, as follows:—

May it please your Lordships. In obedience to an Order of the Right Honble. the Lords Spiritual and Temporal in Parliament assembled, that we should lay before your Lordships an account of what proportion the charge of the Woollen Manufacture in Ireland bears to the charge of the Woollen Manufacture in England, and state what has been done in respect to the Woollen Manufacture by an Act passed in Ireland since the last Session of Parliament here, we humbly represent to your Lordships,

That about the month of October last, a Bill was transmitted from Ireland and here approved, intituled An Act for laying an Additional duty upon Woollen Manufactures exported out of this kingdom, whereof a copy is heremto annexed, the purport of which Act is, that a duty of 20 per cent. *ad valorem* be laid upon broad cloth of the manufacture of Ireland exported out of that kingdom, over and above all other duties then payable upon the said commodity, and in like manner a duty of 10 per cent. *ad valorem* on all new draperies (friezes only excepted) over and above all other duties then payable thereupon; both the said additional duties to continue from the 25th of March 1699

to the 25th of March 1702; whereupon we humbly observe that broad cloth, which is charged by that Act with the higher duty, is a commodity of which very little is made in Ireland, but that the new draperies of which much is made in that kingdom, are manifestly favoured by that Act, and charged with the lower duty, and that friezes are not thereby charged at all.

And concerning the proportion which the charge of the woollen manufacture in Ireland bears to the charge of the woollen manufacture in England, we humbly offer, that it is scarce possible (because of the many and changeable circumstances of things relating thereunto, both in England and Ireland) to give a certain resolution of that question, but that we humbly conceive the following grounds, which we have taken to compute by, and the conclusion drawn from thence, are very probable:—

The Lord Chief Justice Hales in his Discourse touching provision for the poor, (which we cannot doubt to have been carefully made), shows the first cost of wool in an ordinary piece of Gloucestershire cloth to be - - - - - £4 10 0

The cost of cards and oil - - - - - 1 0 0

The expense of work - - - - - 6 5 0

Which makes in all - - - - - 11 15 0

Now, it being evident that both wool and labour are much cheaper in Ireland than in England, though more or less in different places, we think it a reasonable conjecture to take that difference upon a medium to be one-third, and thereupon observe, that the third part of the value of the wool and labour in the abovesaid piece of cloth (which is 3*l.* 11*s.* 8*d.*) being subtracted from the whole value of the said piece of cloth, the remaining sum of 8*l.* 3*s.* 4*d.* would (upon this supposition) be the value of a like piece of cloth made in Ireland, which, by computation, appears to be above 43 per cent. cheaper than the charge or first cost of the like cloth made in England; and we are further humbly of opinion that the difference between the first cost of other sorts of English and Irish woollen manufactures, if it could be thoroughly inquired into, would be found to bear the same or a greater proportion.

But, nevertheless, since the price of wool, both in England and Ireland, is very variable, and the price of labour in the several counties of each respective kingdom is very different, so that the proportion of the one to the other in the whole (upon the supposition of which the foregoing conclusion is drawn) cannot be positively determined, we therefore humbly offer to your Lordships two other suppositions (though they seem unto us less probable), with calculations made in the same manner, viz., that, reckoning the price of wool in Ireland equal with that in England, and the price of labour there one third less than here, the difference between the first cost of English and Irish woollen manufactures would then be about 21½ per cent.; and reckoning the price of labour equal, and the price of wool one-third part less, the said difference would be about 14¼ per cent.; according to which manner of computation, the proportion of the first cost of the woollen manufacture of Ireland in respect to the first cost of the woollen manufacture of England may be easily found, upon any other supposition that it may be thought reasonable to make of the piece of wool and labour in each kingdom respectively.

But we further beg leave to add, that, besides the foregoing considerations of what relates to the first cost of woollen manufactures,

- 1698-9. both in Ireland and England, there are several other circumstances (as the convenience of markets, the distance of ports, the opportunity of shipping, the dyeing and particuler preparations of some sorts of eloths, with many other things relating to trade in those manufaetures), which in some measure diminish the advantages that Ireland seems at present to have more than England in the first cost of the said manufaetures, according to the foregoing computations. All which nevertheless is most humbly submitted. *Signed* J. Bridgewater, Tankerville, Ph. Meadows, William Blathwayt, John Pollexfen, Abr. Hill. *Dated* Whitehall, Mareh 17 1698-9. Here follows a copy of the Aet for laying an additional duty upon woollen manufaetures exported out of this Kingdom. (Annex (a) below). [Read this day. Com. Book. The Bill was brought from the Commons on 7 Mareh. L. J., XVI. 396. It was amended in Committee on 22 Mareh, and reecommitted and further amended on 29 Mareh. Com. Book. Royal Assent 4 May. L. J., XVI. 464. 10 Will. III. c. 16. Fol. Ed.]

Annexed:—

(a) 22 Mareh. Copy of—

An Aet for laying an additional Duty upon Woollen Manufaetures exported out of this Kingdom.

We, your Majesty's most dutiful and loyal subjects the Commons in Parliament assembled, being sensible of the great expense your Majesty hath been and still continues at for the defence of this your Kingdom in peace and safety from the contrivances of your Majesty's and it's enemies, in grateful acknowledgment of your Majesty's royal care, favour and protection, and the better to enable your Majesty to provide for the future safety of your liege people, do humbly beseech your Majesty that it may be enacted, And be it enacted, &c. That from and after the five and twentieth day of March which shall be in the year of our Lord one thousand six hundred ninety-nine the several additional rates and charges hereafter mentioned shall be set, laid and imposed, and are hereby set, laid and imposed, and shall be had, levied, demanded, collected, received, recovered and paid, in and throughout the realm of Ireland, upon the commodities, merehandizes and manufaetures hereafter particulary mentioned that shall be exported out of the same after the five and twentieth day of March one thousand six hundred ninety-nine, and before the five and twentieth day of Mareh which shall be in the year of Our Lord one thousand seven hundred and two, over and above all rates, taxes, payments and duties whatsoever which are already due or payable thereout or for the same (that is to say), for all broad eloth that shall be exported out of this Kingdom of the manufaeture of the same, for every twenty shillings in value of the said broad cloth the sum of four shillings, and for all serges, bayes, kerseys, perpetuanas, stuffs or any other sort of new drapery made of wool or mixed with wool, (friezes only exeeped) that shall be exported out of this Kingdom, for every twenty shillings in value of any of the said sorts of new drapery the sum of two shillings: All which said duties every customer or collector for the time being shall levy and receive according to the true value and price of such goods, which shall be ascertained by the same ways and methods as by an Act made in the fourteenth year of the reign of King Charles II, (entitled an Act for settling the subsidy of Poundage and granting a subsidy of Tonnage and other sums of money

unto his Royal Majesty, his Heirs and Successors, the same to be paid upon merchandizes imported and exported into or out of this Kingdom of Ireland according to a Book of Rates hereto annexed) are appointed for ascertaining the value of all merchandizes which are taxed to pay any duty *ad valorem* not particularly mentioned in the Book of Rates to the said Act annexed. And all the said several duties shall likewise be collected, levied and paid during the time aforesaid by such persons, at such times, in the same manner and form and under such regulations, penalties and forfeitures as the duties payable by the before-mentioned Act are enacted to be collected, levied and paid. [Annexed to Account of the Commissioners.]

1698-9.

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No. 1417.

- (b) 24 March. Petition of the Governors of the Dutch Bay-hall in Colchester, and also of the Bay-makers, Perpetuana-makers, and Say-makers of the said town. The woollen manufactures of Colchester are so considerable, that the poor of the town, which are very numerous, have their chief dependence thereon for weaving and other manual arts, and of the country, for about 20 miles round, for spinning, and by reason of the great quantities of the manufactures exported into foreign parts, considerable sums accrue to the Customs, and no small duties to Christ's Hospital. The trades have lain under great discouragements for about seven years last, by the scarcity of wool, insomuch that many tradesmen, decaying, have removed to Ireland and set up the manufactures there, to the decay of the manufactures in England and the impoverishing of Petitioners. The Bill for the encouraging of the woollen manufactures in England, and to restrain the exportation of woollen manufactures from Ireland into any foreign parts, and for the better preventing the exportation of wool from England and Ireland, will effectually relieve Petitioners and encourage them in their trades. Pray that the Bill may pass. *Ninety-seven signatures. Endorsed* as read this day. MS. Min. No entry in L. J.

1418. March 23. Athy's Estate Act.*—Amended Draft of an Act to enable William Wrayford, Gent., and Dame Ann Rich, Widow, to make leases of houses and grounds in Covent Garden, late the estate of John Athy, Citizen and Haberdasher of London. Some Amendments mainly of a drafting character were made in both Houses. [Read 1^a this day. Royal Assent 4 May. L. J., XVI. 413, 465. 11 Will. III. c. 67 in Long Cal.]

Annexed:—

- (a) 31 March 1699. Petition of John Athy, Gent. Petitioner, whose personal attendance and consent is required, is some 150 miles from home and, by reason of great losses, is in debt and insolvent. Prays for freedom from arrest during his necessary stay and attendance. L. J., XVI. 429.

- (b) 17 April 1699. Lords' Amendments to the Bill. [Offered by the promoters and agreed to by Committee 15 April, and reported this day. Com. Book. L. J., XVI. 438.]

1419. March 24. Papists (Disinheriting of Protestants) Bill.—Commons' Engrossment of an Act to prevent settlements made by Papists from disinheriting their Protestant heirs.

§ i. Whereas it is found by experience that for the promoting and carrying on of the Popish interest in this Kingdom, Papists and persons

* Entered in L. J. as Wrayford's Bill.

- 1698-9. in the Communion of the Church of Rome do often disinherit their next heirs, apparent or presumptive, or such persons who are entitled to lands or tenements in reversion or remainder expectant upon estate tails, being Protestants, by making conveyances and settlements of their lands, tenements and hereditaments, and thereby limiting the same or the remainders or reversions thereof to some persons in remoter degree of relation or others who are Papists, and sometimes to persons upon unlawful, secret and dangerous trusts, and for the use and benefit of Jesuits and priests, which does not only tend to the great detriment of divers of his Majesty's Protestant subjects, but the strengthening of the Popish faction in this Kingdom, Be it therefore enacted, &c. That no voluntary conveyance or settlement which shall be made from and after the one and thirtieth day of March in the year of our Lord one thousand, six hundred, ninety-nine, of any lands, tenements or hereditaments by any person or persons who at the time of the making such settlement or conveyance or any time thereafter shall be convicted of being a Papist shall be effectual or of force in law to bar or deprive any person who is a Protestant and might claim the same or any part thereof as heir at law or by virtue of any entail or of any remainder or reversion next and immediately expectant upon any estate tail or otherwise, in case such voluntary conveyance had not been made, nor shall hinder any descent or entry; but as to such Protestant heir, or other person or persons claiming as aforesaid, such conveyance or settlement shall be and is hereby declared absolutely void unless such voluntary conveyance be made from husband to wife, or from wife to husband for and during their respective lives or the life of either of them only; And also that all conveyances and sales which shall be made from and after the said one and thirtieth day of March which shall be in the year of our Lord one thousand, six hundred, ninety nine by any Papist then convicted, or who afterwards shall be convicted as aforesaid, for any real and valuable considerations amounting to less than two-thirds of the real value of such estate so sold, shall against such Protestant who either shall be heir at law or any remainder or reversion as aforesaid be esteemed and adjudged as mortgages only, and shall be redeemable as mortgages on payment of the consideration money real and *bonâ fide* paid, together with interest and the charges of the party or parties to whom such conveyances have been or shall be made, although such conveyances be made in absolute terms and do not contain any proviso or condition to defeat or determine the estates thereby and therein granted. Provided such Protestant heir shall redeem the said lands sold or to be sold as aforesaid within three years after such sale and notice thereof given in writing to such Protestant heir, unless such Protestant heir shall be under the age of one and twenty years, in which case such Protestant heir shall have three years after he shall attain his full age of one and twenty years and notice as aforesaid; And if he does not redeem the same within the time aforesaid, then such sale shall be absolute, and such Protestant heir for ever foreclosed of any equity of redemption of the same.

§ ii. And forasmuch as the sending children to be educated beyond the seas in the Popish religion is not sufficiently prevented by the laws already made and provided, For the better remedy thereof, Be it enacted that the next Protestant of his or their kin who shall, according to the Statutes made in that behalf, enter upon the lands, tenements and hereditaments of such child or children as are sent or gone beyond the seas to be bred or live in the Popish religion shall take the rents, issues and profits of the same to his or her own use or behoof, until such child or

children shall return and conform him or themselves to the Church of England, and take the oaths by the law required, without any account to be rendered for the said rents, issues and profits unto such child or children or any claiming by, from or under him or them or any of them.

1698-9.

No. 1419.

§ iii. And be it further enacted by the authority aforesaid, That in all and every such case or cases where any person or persons of the Protestant religion established by law shall happen to die seized of any lands, tenements or other hereditaments of the yearly value of twenty pounds, or possessed of any personal estate to the value of four hundred pounds, and shall leave any child or children who shall not have attained the respective age or ages of twelve years, or if any person or persons hath heretofore died, and left any such child or children who shall not have attained the said age of twelve years before the making of this present Act, That then and in all such cases neither the mother nor any other relation who shall happen to be of the Romish religion shall have the custody, guardianship or education of any such child or children, But that they and every of them shall be committed to the care, tuition and guardianship of some near relation of the Protestant religion, or, for want of such, to such person or persons as by the said mother or other relation (to whom the guardianship should have belonged, had they not been of the Popish religion) shall be proposed to and allowed of by the Lord Chancellor, Lord Keeper or Commissioners of the Great Seal of England for the time being, or any other person or persons as have power by law to constitute and appoint the custody and tuition of infants, and such child or children shall by such Protestant relation, or other such person or persons, to be approved by the said Lord Chancellor, Lord Keeper or Commissioners of the Great Seal, or any other person or persons having power by law to constitute and appoint the custody and tuition of infants, be educated, instructed and brought up in the religion of their respective fathers until they shall attain the respective age or ages of one and twenty.

Parchment Collection. [Brought from the Commons this day, L. J., XVI. 416. On 25 April a Message was received from the Commons to put this House in mind of the Bill. *Ib.* 449. On 2 May in C.W.H. the *Attorney-General* and *Powell, J.* were heard on the first Clause. Progress was reported, and the judges present and the *Attorney-General* were ordered by the House to draw a Bill to answer the purport of this Bill and present it next Session. MS. Min. L. J., XVI. 461.]

1420. March 24. Outlawries (Seizures in Exchequer) Bill.—Commons' Engrossment of an Act for the speedier and more easy discharging of seizures in the Exchequer upon Outlawries in Civil Causes.

§ i. Whereas many persons within this Kingdom do hold and enjoy divers manors, messuages, lands, tenements and other hereditaments by lease or leases for a certain number of years absolute or for years determinable on the death of one, two, three, or more lives or for life or lives absolute, and such person or persons, being very often prosecuted by their creditors to an outlawry in a clandestine manner and on a special *Capias utlagatum*, their estates seized into his Majesty's hands and a lease or leases thereupon granted under the seal of the Court of Exchequer to the party or parties at whose suit such outlawry or outlawries is or are obtained, and oft-times such outlawed person or persons are found to be possessed of several goods and chattels, and although the estate or estates of the person or persons so outlawed be determined

1698-9. by efflux of time or the death of the life or lives on such estates, yet
 No. 1420. process of *Levari facias* is continued and issued out of the Pipe Office
 and other offices belonging to the Court of Exchequer, and the person
 or persons owning and entitled to the reversion and inheritance of the
 premises cannot by the rules and practice of the said Court of Exchequer
 plead off and discharge his estate and inheritance from the said seizure
 and seizures without very great and extraordinary charges, which in
 some cases and very often amount to the value of the estate; For
 remedy whereof, Be it enacted, &c., That where any person outlawed
 shall be found to be possessed of any goods or chattels, and the same,
 by virtue of such outlawry, shall be seized into his Majesty's hands, the
 Barons of the Court of Exchequer shall be and are hereby required
 and enabled, upon motion in Court, to grant an Order for payment of
 the moneys arising by sale of such goods and chattels so seized into his
 Majesty's hands unto the party or parties prosecuting such outlawry,
 towards satisfaction of the debt and damages so owing from such out-
 lawed persons, and in case there shall be a surplus, after the debt and
 charges paid, the same shall be answered and paid into the Receipt of
 his Majesty's Exchequer.

§ ii. And be it further enacted by the authority aforesaid, That where
 any manors, messuages, lands, tenements, or other hereditaments now
 are or at any time hereafter shall be seized and extended into his
 Majesty's hands by virtue of any outlawry, seizure or extent, prosecuted
 and obtained in any of his Majesty's Courts of Record at Westminster
 for debt or damages, or in any other civil action whatsoever, and it doth
 and shall appear by the Record or Transcript of such Record and seizure
 or otherwise that the estate and interest which the person or persons
 against whom such outlawry or outlawries, seizure or extent is, are or
 shall be so prosecuted and obtained have or hath of, in and unto the
 said manors, messuages, lands, tenements and hereditaments so extended
 and seized into his Majesty's hands is or was only an estate for a certain
 number of years or for life or for years determinable on the death of the
 person or persons so outlawed, or any other person or persons whatso-
 ever, That in all such cases, when such number of years expire, or
 such life or lives shall die, and the estate or estates so extended thereby
 determine and expire, the Court of Exchequer thereupon shall and are
 hereby required and enabled, upon motion to be made in open Court on
 the behalf of the person next entitled to such extended estate, on the
 oath or affidavit of two or more credible persons, to be filed in the said
 Court, setting forth the particualar time when such number of years
 expired or the particualar time and place of the death of such person or
 persons, for and during whose life the said manors, messuages, lands,
 tenements and hereditaments are or shall be so seized or extended, to
 grant one or more Order or Orders for restitution of all moneys levied
 on such estates since such determination thereof and not answered unto
 his Majesty, and also for the staying and forbidding any further process
 whatsoever to be issued forth against such extended lands and premises
 on the said outlawry, seizure and extent; and the said extended lands
 and premises shall from thenceforth be absolutely discharged from the
 said seizure and extent, without further charge or delay, as fully and
 effectually as if the death of such person or persons, or other determina-
 tion of the said estate, had been actually pleaded in the said Court and
 confessed by the Attorney-General, and a *Quietus* thereon procured as
 the same is now usually done, to the great cost and expense of the party
 next entitled to such extended lands after the expiration of the particualar
 estate for life or years determinable and extended as aforesaid, any law,
 usage or custom to the contrary in any wise notwithstanding.

Parchment Collection. [Brought from the Commons this day. 1698-9.
Read 1^a 27 April. L. J., XVI. 414, 453. No further proceedings.]

Annexed:—

No. 1420.

(a) Breviate of the Bill.

1421. March 24. Billingsgate Fish-Market Act.—Petition of the Fishmongers in and about the City of London. The Bill for making Billingsgate a free market for sale of fish complains of Petitioners, as being guilty of divers abuses, of which they are innocent. The Bill will much prejudice them and give the public no benefit. Pray to be heard by Counsel before it pass. *Thirty-nine signatures. Endorsed* as read this day. L. J., XVI. 414. [The Bill was brought from the Commons on 21 March. Counsel and witnesses were heard on behalf of the fishmongers and others on 14 April, and in C.W.H. on 18 April for the Lord Mayor. Royal Assent 4 May. MS. Min. L. J., XVI. 410, 465. 10 Will. III. c. 13 Fol. Ed.]

Annexed:—

(a) 14 April 1699. Petition of Daniel Allen. Petitioner, by a grant for the term of 20 years to come, from the Corporation of London, for the yearly rent of 95*l.* therein reserved, is entitled to all the rates and duties due and belonging to the City for their room, land, wharf and dock of Billingsgate. He has expended great sums in obtaining the grant and furnishing the wharf with fastenings, &c. for the better accommodation of vessels, and has enjoyed the lease only one year. The Bill proposes to distribute the duties, allowed by Act to be taken, as the Lord Mayor and Court of Aldermen shall yearly direct. Prays that this disposing Clause, which will greatly prejudice him, may be left out, and that he may be heard by Counsel. *Endorsed* as read this day. L. J., XVI. 437. [Read in C.W.H. on 18 April and *Mr. Serjt. Wright* and *Mr. Northey* heard for Petitioner. MS. Min.]

(b) 14 April 1699. Affidavit of Andrew Jennings that John Clement, a fishmonger, said that the Master of the Fishmongers' Company told several lies the day before in the lobby, in saying that the fishmongers bought fish at 12*d.* and sold them for 5*d.* apiece. Informant replied to him that the Master of the Fishmongers' Company was the L. Marquess of Carmarthen and that Clement ought to have his tongue clipt for being so saucy. Clement then said that he knew the said Lord's beginning, and added, on Jennings' saying that the Marquess was born a gentleman, that his Lordship's crime was the greater in soliciting so many lies as were printed in the Paper he dispersed. *Dated* 17 March 1698-9. *Attested* by Mary Ralph and Elizabeth Briggs. *Endorsed* as dated this day. The House was informed this day upon oath that John Clement, Fishmonger, had spoken opprobrious words of Lord Osborne* as Master of the Fishmongers' Company, and Clement ordered to be attached. L. J., XVI. 437.

(c) 14 April 1699. Draft Proviso A for the King, as follows:—
“Provided always that nothing in this Act contained shall be construed to take away an ancient duty of eod and ling payable† to the Kings of this realm, for the service of their Household, by such merchants as trade to Westmony and Iceland, but

* *i.e.* M. Carmarthen. He was the eldest son of the Duke of Leeds, and sat in the House of Lords as Lord Osborne of Kiveton.

† The words (“by contract”) are here interlined and struck through.

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No. 1421.

that the same may be taken by his Majesty's Officers in such manner as the same hath been lawfully used to be taken before the making of this Act" [Offered in the House this day, on behalf of the King, and referred to the Committee on 18 April. MS. Min. Agreed to be added in C.W.H.; disagreed to by the Commons, (see annex (*f*) below) but insisted on by the Lords. L. J., XVI. 442, 450.]

- (*d*) 18 April 1699. Draft Proviso against Forestallers and Regrators as follows: "Provided always and be it enacted by the authority aforesaid, That this Act, nor any matter, clause or thing therein contained, shall in any wise extend unto or be construed to make void the Statute made in the 5th and 6th years of King Edward VI, against Forestallers and Regrators, that is to say, such Regrating as is or shall be a buying and selling again in the same market, but that the said Statute against Forestallers and such Regrators shall stand and abide in full force and virtue. *Endorsed* as rejected this day. MS. Min.
- (*e*) 19 April 1699. Petition of John Clement, Fishmonger. Petitioner begs L. Osborne's pardon and that of the House, and prays to be discharged. L. J., XVI. 443. [Read this day and petitioner discharged, after a reprimand.]
- (*f*) 21 April 1699. Commons' Reasons for disagreeing to the Lords' Amendment, Clause A. [Reported and agreed to by the Commons 20 April. C. J., XII. 655. *In extenso*. They were communicated to the Lords at the Conference this day. L. J., XVI. 446.]

1422. March 24. D. Northumberland's Privilege (John Smith).—Affidavit of John Smith, of the parish of St. Martins-in-the-Fields, co. Middlesex. Deponent, a domestic and menial servant, is employed as head groom of the stables to D. Northumberland. He was arrested on 12 July last at the suit of Thomas King, wine cooper of London, by one Jacob Broad, bailiff or agent to the Sheriff of Middlesex, notwithstanding Deponent's telling him who he was. The Duke sent his steward with a letter demanding his discharge, but Deponent was kept in custody three days after, and was forced to bring a *Habeas corpus* to be removed to the Fleet, where he still remains. *Sworn* by John Smith 22 March 1698-9 before S. Keck. L. J., XVI. 416. [D. Northumberland acquainted the House this day of the breach of privilege committed upon his groom in his livery. *Matthew Howel* gave evidence as to the use of opprobrious words against the Duke by Broad, the bailiff. *Ordered* that Broad, bailiff, and King be attached, and Smith discharged. MS. Min.]

1423. March 24-25. Naturalization Act (Guy and 51 others).—Certificates that the following persons (named in the Act) have received the Sacrament according to the usage of the Church of England, viz.,

- (1.) Scipio Guy, on 26 Feb. 1698-9, at the Parish Church of St. Martin's, Westminster. *Signed* W. Lancaster, D.D., Minister, Fra. Boteler, Churchwarden. *Dated* eod. die. *Attested* by John Lewis De Lafarelle and James Peltier. [Commission as Cornet, 8 May 1696. Com. Book.]
- (2.) James Peltier. *Attested* by John Lewis de Lafarelle and Scipio Guy. Rest as in (1.). [Commission as Cornet, 12 August 1690. Com. Book.]
- (3.) Richard Hammaker, on 5 Feb. 1698-9, at the Parish Church of St. Martin's, Westminster. *Signed* Tho. Yates, A.M.,

Curate, Fra. Boteler, Churchwarden. *Dated* eod. die. 1699.
Attested by William Dorneil, John Hill and Cutts Hassan. --
 [Certificate of Col. Seymour that he is an officer since 1 Aug. No. 1423.
 1692. Com. Book.]

- (4.) Francis Naizon [Signs Nezon in (10.)], on 29 Jan. 1698-9 at the Parish Church of St. Andrew's, Holborn. *Signed* T. Manningham, D.D., Minister, Fran. Higgins, Churchwarden. *Dated* eod. die. *Attested* by Francis Brown and Daniel Crespín. [Naizon, Commission as Cornet, 16 Feb. 1693-4. Com. Book.]
- (5.) Benjamin Grimaudet, on 5 March 1698-9. *Dated* eod. die. *Attested* by Peter Maturin and Francis Maleray. Rest as in (1.). [Commission as Ensign, 13 March 1692. Com. Book.]
- (6.) John Du Bos Dentilly. *Attested* by Matthew Latour and Charles Guinebauld Lamilliere. Rest as in (5.). [Captain, 23 April 1694. Com. Book.]
- (7.) Charles Fouquet. *Attested* by Bernat Pomarede and Jaques Barde. Rest as in (3.). [Commission as Cornet, 18 June 1689. Com. Book.]
- (8.) Charles Guinebauld Lamilliere [De La Milliere in Act], on 5 March, 1698-9. *Dated* eod. die. *Attested* by Bartholomew Arabin and Ruben Cailland. Rest as in (1.). [Commission as Lieutenant, 10 August 1689. Com. Book.]
- (9.) John Cruseau. *Attested* by Scipio Guy and Noah Cadroy. Rest as in (1.). [Commission as Cornet, 28 January 1695. Com. Book.]
- (10.) John Petry. *Attested* by Isaac Delafont and Francis Nezon. Rest as in (3.). [Commission as Major, 16 Feb. 1693. Com. Book.]
- (11.) John Lewis De Lafarelle. *Attested* by James Peltier and Scipio Guy. Rest as in (1.). [Commission as Ensign, Dec. 1688. Com. Book.]
- (12.) Peter Maturin. *Attested* by Francis Maleray and Benjamin Grimaudet. Rest as in (5.). [Commission as Chaplain, 1 Jan. 1697. Com. Book.]
- (13.) Philip Babington. [An infant. Allowed. Com. Book.]
- (14.) Isaac Digirandin Lafount [Isaac Lafont in Act]. *Attested* by John Petry and Francis Nezon. Rest as in (3.). [Commission as Major, Feb. 1693-4. Com. Book.]
- (15.) Philip de St. Jean, on 26 Feb 1698-9, at the Parish Church of St. Martin's, Westminster. *Signed* Robert Grisedale, A.M., Curate, Fra. Boteler, Churchwarden. *Dated* eod. die. *Attested* by Alexander Durore and Francis Durore. [Commission as Lieutenant, March 1692. Com. Book.]
- (16.) Daniel Cottin. *Attested* by Peter Maturin and Benjamin Grimaudet. Rest as in (1.). [Commission as Major, Jan. 1696. Com. Book.]
- (17.) Francis Durore. *Attested* by Philippe de St. Jean and Peter Carles. Rest as in (15.). [Durore, Commission as Captain, December 1693. Com. Book.]
- (18.) Matthieu Lafite, on 26 Feb. 1698-9. *Dated* eod. die. *Attested* by Noah Cadroy and Lewis de Sediére. Rest as in (3.). [Commission as Lieutenant, 10 Feb. 1692. Com. Book.]
- (19.) Alpheus Beauregard. *Attested* by James Peltier and Scipio Guy. Rest as in (1.). [Certificate as Ensign. Commission, 24 Dec. 1694. Com. Book.]

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- (20.) Augustus de Laspois [Laspoix in Act]. *Attested* by Louis de Ramray and Abraham Sandoz. Rest as in (1.). [Delaspoix, Commission as Captain, 23 April 1694. Com. Book.]
- (21.) Charles De Sageaux. *Attested* by Daniel Cottin and Bartholomew Arabin. Rest as in (5.). [Commission as Cornet, 8 Oct. 1691. Com. Book.]
- (22.) Lewis Regnier. *Attested* by Francis Labat and Peter Chauvyn. Rest as in (5.). [Commission as Lieutenant, April 1693. Com. Book.]
- (23.) Peter Chauvyn. *Attested* by Francis Labat and Lewis Regnier. Rest as in (5.). [Chauvin, Commission as Lieutenant, March 1694. Com. Book.]
- (24.) Francis Labat. *Attested* by Peter Chauvyn and Lewis Regnier. Rest as in (5.). [Commission as Lieutenant, Nov. 1693. Com. Book.]
- (25.) Charles Bygot [Bigott in the Act], on 22 Jan. 1698-9. *Dated* eod. die. *Attested* by Andrew Costard de Boismorel and Thomas Lehulle. Rest as in (3.). [Commission as Lieutenant, April 1691. Com. Book.]
- (26.) Isaac Gerveran [Gerveram in Act]. *Attested* by Bernard Deguillem and Stephen Cadroy. Rest as in (5.). [Commission as Lieutenant, 20 July 1696. Com. Book.]
- (27.) Capt. Peter Daussy. *Attested* by Henry Le Cock and Joachim Goudet. Rest as in (5.). [Certificate as Captain, 23 May 1690. Com. Book.]
- (28.) Lewis Petit. *Attested* by Jean Chardellou and Isaac Francis Petit. Rest as in (3.). [Commission as Engineer, 19 June 1691. Com. Book.]
- (29.) Peter Carles [Carle in Act]. *Attested* by Lewis Petit and Francis Duroure. Rest as in (1.). [Carle, Commission as Captain, Oct. 1693. Com Book.]
- (30.) Francis Maleray. *Attested* by Benjamin Grimaudet and Stephen Cadroy. Rest as in (5.). [Commission as Lientenant, 18 Oct. 1695. Com. Book.]
- (31.) Louis de Ramray [Lewis de Ramsey in Act]. *Attested* by Augustus de Laspois and Abraham Sandoz. Rest as in (1.). [Lewis de Ramsey. Commission as Captain, Nov. 1689. Com. Book.]
- (32.) Abraham Sandoz. *Attested* by Augustus de Laspois and Louis de Ramray. Rest as in (1.). [Commission as Ensign, April 1694. Com. Book.]
- (33.) Noah Cadroy. *Attested* by Lewis de Sediere and Matthieu Lafite. Rest as in (1.). [Commission as Cornet, March 1692. Com. Book.]
- (34.) Joachim Goudet. *Attested* by Peter Daussy, Henry Le Cock and David Dignes. Rest as in (5.). [Commission as Ensign, December 1694. Com. Book.]
- (35.) Reuben Cailland [Cailleau in Act*]. *Attested* by Elias Neau and Matthew Latour. Rest as in (5.). [Cailleau, Commission as Captain, August 1698. Com. Book.]
- (36.) Peter Galby Degaucac [Galby de Ganjat in Act]. On 22 Jan. 1698-9. *Undated*. *Attested* by John Murray, Jeremiah Crowther and Thomas Furst. Rest as in (3.). [Peter

* After this name the following appears in Com. Book of 25 March : "John Preston, to be left out because in Montargier's Bill." See No. 1413.

- Gally de Gaujæ, Chaplain to E. Macclesfield's Regiment. Com. 1699.
Book.]
- (37.) Bartholomew Arabin. *Attested* by Peter La Roque and Charles Guinebauld Lamilliere. Rest as in (5.). [Commission as Captain, Dec. 1693. Com. Book.] No. 1423.
- (38.) Matthew Latour. *Attested* by Ruben Cailland and Elias Neau. Rest as in (5.). [Commission as Ensign, 18 Feb. 1691. Com. Book.]
- (39.) Louis Duterne [Du Terney in Act] De La Cour. *Attested* by James De La Boullaye and John Maynard. Rest as in (5.). [Louis du Terme de la Court, Commission as Lieutenant, March 1691. Com. Book.]
- (40.) John Maynard. *Attested* by Francis Maleray and James De la Boullaye. Rest as in (5.). [Commission as Ensign, Feb. 1693. Com. Book.]
- (41.) Henry le Coq. *Attested* by Peter Daussey and Joachim Goudet. Rest as in (5.). [Commission as Ensign, April 1692. Com. Book.]
- (42.) James De La Boullaye. *Attested* by Francis Maleray and John Maynard. Rest as in (5.). [Commission as Ensign, Nov. 1698. Com. Book.]
- (43.) Olivier Crespin. *Attested* by Francis Hurry and Peter La Chapelle. Rest as in (5.). [Oliver Crespin, Certificate [given by] E. Arran, served 13 years. Com. Book.]
- (44.) John Caspar Keiling, Gent., on 5 March 1698-9, at the German Lutheran Church in St. Mary le Savoy. *Signed* Irenæus Crusius, M.A., Minister, William Baker, George Russeler, Churchwardens. *Dated* eod. die. *Attested* by William Baker and John Hase.
- (45.) Gabriel Chenney. *Attested* by Robert Georges and Hugh Ethersay. Rest as in (5.). [A Letter. Com. Book.]
- (46.) John Fournier, on 29 Jan. 1698-9. *Dated* eod. die. *Attested* by Jeremiah Crowther and William Hawkins. Rest as in (3.). [Bomb Vessels, June 1689. Com. Book.]
- (47.) Lewis Dagneaux, on 5 March 1698-9, at the French Church of the Savoy. *Signed* Thomas Satur, Minister, John Braguier, Churchwarden. *Dated* eod. die. *Attested* by James Du Hamel and Benjamin de Marcade. [Louis Dagneaux, Certificate Trelawney [Regiment]. Ensign, July 1698. Com. Book.]
- (48.) David Dignes [Dignes in Act*], *alias* De la Touche. *Attested* by Peter De Cosne, Roger Worrall, and Joachim Goudet. Rest as in (5.). [Dignes, Commission as Lieutenant, 30 April 1694. Com. Book.]
- (49.) Elias Neau. *Attested* by Reuben Cailland and Matthew Latour. Rest as in (5.). [E. Feversham [Regiment]. Com. Book.]
- (50.) Francis Hurry. *Attested* by Olivier Crespin and Peter La Chapelle. Rest as in (5.). [Commission as Adjutant, 1695. Com. Book.]
- (51.) Euvertre de Meanssé Saureney [Saureney in Act]. On 19 March 1698-9. *Dated* eod. die. *Attested* by René Granger and Theophile Vauelan de la Coude. Rest as in (3.). *Appended* to this Certificate is a Paper as follows: "Euvertre

* Signs as Dignes in (34).

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No. 1423.

de Meaussé Saurency, son of Jacop de Meaussé Saurency and Mary de Jollivet, his wife, born at Orleans in France, Lieutenant to his Majesty's Regiment of Foot Guards." [To be added to the Bill. Com. Book.]

(52.) Paul Margaret, on 12 March 1698-9. *Dated* cod. die. *Attested* by Jeremiah Crowther and Robert West. Rest as in (3.). [To be added to the Bill. Com. Book.]

[Nos. 1-10 of the above Certificates were read in Committee on March 24, and the remainder the next day. Com. Book. The Bill was brought from the Commons on 16 March. Royal Assent 4 May. L. J., XVI. 406, 466. 11 Will. c. 85 in Long Cal.]

1424. March 25. *Grantham v. Lec.* Petition and Appeal of Francis Grantham and Ann his wife. Nathaniel Thorold, now deceased, John Lee and Mary his wife exhibited their Bill in Chancery against Appellants and Michael Bland and Theophilus Shelton. In this Bill they suggested that Richard Cracroft was at the time of his death indebted for various sums of money to Thorold and to Mary Lee; that he had a personal estate in goods of 1,000*l.* and debts due to him of 1,000*l.*; that he made his Will leaving to Mary Lec 20*l.*, Shelton being sole executor; that Shelton made a fraudulent Bill of sale to Bland of the testator's goods of husbandry to the value of 500*l.* and confessed a judgment of 200*l.* to Appellants or one of them, on which the testator's goods to the value of 700*l.* were taken in execution, and the then plaintiffs prayed a discovery of the testator's estate and relief upon their respective demands.

The Appellants by their answer insisted that both the testator and Shelton were indebted to them for a considerable sum, and that the Appellant and Shelton had come to an account and the debt had been agreed to be 140*l.* Shelton, in order to secure this sum, gave a warrant of attorney for the 200*l.* which he admitted to be due to the Appellants. The Appellants caused the judgment to be entered and divers drapery wares of Shelton's to be taken in execution by the sheriff of Lincoln to the value of 140*l.*, which goods were not sufficient to pay Appellants' debt and charges.

The Cause was heard before the Master of the Rolls and Bland was ordered to come to an account before a Master for what he had received of the testator's estate, and it was decreed that the Appellant should come to an account for such part of the testator's personal estate as came to his hands, and if Shelton did not pay the Plaintiffs then Bland and the Appellant were to pay them what was due out of the personal estate of the testator which should be found by the Master to be in their hands after allowances made to them as aforesaid. The Master reported what was due to Elizabeth Thorold, executrix of Nathaniel, and to the Plaintiff Lee and his wife, and charged the Appellant with the 202*l.* the produce of the clothes as assets of the testator Cracroft's personal estate without making any allowance to the Appellants. Afterwards, upon Appellants' petition alleging that they could not have any allowance for the money due to them out of the proceeds of the goods because the Master was not directed to allow the same, they got a rehearing, when the decree was confirmed. On the Cause being heard in relation to costs and interest, Appellants were decreed to pay the interest of the Plaintiff's demands and their costs of suit. Appeal against all the orders and decrees. *Signed* by Appellants. *Countersigned* Jon. Squibb, P. Bowes. L. J., XVI. 418.

[The Appeal was allowed to be withdrawn on 23 April, the Respondents consenting. *Ib.* 456.]

Annexed:—

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No. 1424.

(a) 8 April. Answer of John Lee, Mary his wife, and Elizabeth Thorold. The decrees are just and equitable and the errors assigned as cause for the reversal of them are groundless, frivolous and vexatious. Pray that the Appeal may be dismissed with costs. *Signed* by Respondents. *Countersigned* Hen. Poley. *Endorsed* as brought in this day.

(b) 28 April. Consent to the withdrawal of the Appeal. *Signed* by John Lee. *Countersigned* Tho. Swinden, Solr. for the Appellants. Below is written "The Appeal never to be brought again."

1425. March 27. *Hawke* and *Rainbow* (Ships) Act.—Draft of an Act for the Ships *Hawke* and *Rainbow* to trade as English-built ships. [Read 1^a this day; Royal Assent 4 May. L. J., XVI. 420, 466. 11 Will. III. c. 73 in Long Cal. The proceedings in Committee are not recorded in Com. Book.]

1426. April 1. Pulteney's Estate Act.—Amended Draft of an Act for the enabling the surviving trustee of Sir William Pulteney, Knt., deceased, to make leases for the raising monies for payment of his son William Pulteney's debts and other purposes therein mentioned. The chief Amendments are the insertion of the name of Henry Guy as a trustee, of the number of years for which leases were to be granted and of the amount to be paid towards the discharge of William Pulteney's debts. The Commons made several drafting Amendments. [Read 1^a this day; Royal Assent 4 May. L. J., XVI. 430, 465. 11 Will. III. c. 56 in Long Cal.]

Annexed:—

(a) 18 April 1699. Letter from Lady Pulteney to E. Rochester, Chairman of the Committee, stating her inability to attend through illness, and giving her consent to the Bill for payment of her son's debts. [Read in Committee this day. Com. Book.]

(b) 18 April. Proviso as follows: "Provided that this present Act shall not be construed in any wise to extend unto or affect or destroy one annuity, annual payment or yearly rent-charge of 150*l.* per annum, exempt of all taxes and claims whatsoever, which Sir Goddard Nelthorpe, Bart., is entitled to have out of the said premises or some part thereof during the life of Dame Dorothy Nelthorpe, his wife, and which is chargeable upon the said premises or some part thereof; that the same shall be paid and recoverable during her life in such manner as the same might or ought to have been before the making of this Act; neither shall it be construed to affect, extinguish, defeat or destroy any grant or assignment of any term for years, or any future interest for years, which the said Sir Goddard Nelthorpe, his executors or administrators, hath or have, are or is entitled to in the said premises or any part thereof, or any rights and advantages of renewing such leases by himself, his executors, administrators or trustees; neither shall this present Act be deemed or construed to extend in any wise to impeach, destroy or invalidate any covenant or covenants contained in any grant or assignment of the premises or any part thereof for any term of years made and granted by the said Sir William Pulteney or his trustees to the said Sir Goddard Nelthorpe and Dorothy, his wife, or either of them, which are and ought to be performed on the part and behalf

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“ of the said Sir William Pulteney, his heirs, executors and
“ administrators, or any right or title of the said Sir Goddard
“ Nelthorpe, his executors and administrators, of and to the
“ premises or any part thereof, but that all and every such
“ covenants, rights and advantages shall stand and be good and
“ effectual in the law, to all intents and purposes, as if this Act
“ had never been made, anything herein contained to the con-
“ trary thereof in any wise notwithstanding.” *Endorsed* as read
this day and rejected. Com. Book.

1427. April 1. Liverpool (Parish Church) Act.—Petition of Caryll, Lord Viscount Molyneux. Petitioner and his ancestors have been patrons of the church of Walton, co. Lancaster, ever since 10 Edward IV, which church has a vicarage endowed. The Bill proposes to make the town of Liverpool, which is within the parish of Walton, and about a fifth part thereof, a distinct parish, and to erect a church in the said town besides the parochial chapel that is now there, and to annex the whole township and the great and small tithes of Liverpool to the said church and chapel, and the Mayor and Aldermen to be patrons thereof. The great and small tithes within the liberties of Liverpool now belong to the Rector and Vicar of Walton, and are of great value. There is a Clause in the Bill obliging the Mayor and Aldermen to pay to Richard Richmond and Thomas Marsden, the present Rector and Vicar, 55*l.* and 6*l.* 10*s.* a year during their respective lives, but no provision is made for their successors. Petitioner is very willing a church should be built in Liverpool, so as the town endow it at their own charge (they being very rich and able so to do), but the Bill takes away the tithes from Walton without Petitioner's consent, and a Clause also is inserted for the Sheriff of the County to summon a jury to assess Petitioner's damages. Petitioner is advised that there is no precedent for compelling a man to sell his inheritance without his consent, where the thing intended may be effected without so doing. Prays to be heard by Counsel before the Bill pass. *Signed* Caryll Molyneux. L. J., XVI. 431. [The Bill was brought from the Commons on 19 March. L. J., XVI. 419. In Select Committee on 15 April *Mr. Northey* and *Mr. Dodd* opened the L. Molyneux's case as to the church to be erected. The patronage of the new church ought to belong to my L. Molyneux, the old patron, the same being carved out of our parish whereof we are patrons. If there be but a saving of the tithes to the Rector of Walton that do arise to him in the town of Liverpool we shall not say anything to the Bill. Let the successors of the present Rector have what the town will allow to the present Rector and we are content. *Mr. Serjt. Wright* (for Liverpool) says Parliament has done the same thing in the case of the Vicar of St. Martin's, in taking St. James's and St. Anne's parish out of it. *Ordered* that the Counsel meet and try to agree a sum to be paid the L. Molyneux in lieu of his advowson. On 19 April the parties were asked whether they were agreed. *Mr. Pope* (for L. Molyneux) says they are not agreed. He has written to his Lordship and will have no answer till Friday. He has no commission to take less than 400*l.*, and *Mr. Clayton* offers but 150*l.*. *Mr. Northey*, his Counsel, will be here presently. *Mr. Clayton* says 150*l.* is three years' purchase. The Bill was reported without amendment. Com. Book. Royal Assent 4 May. L. J., XVI. 445, 465. 11 Will. III. c. 60 in Long Cal.]

1428. April 1. *Fitch v. Attorney-General* and Commissioners of the Navy. Acknowledgment by Appellant of satisfaction for all moneys to be received pursuant to Judgment of the House of

9 February last. *Signed* by Appellant; *Attested* J. Sambrooke, John Saunders. *Endorsed* as dated this day. (See No. 1331.)

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No. 1428.

1429. April 3. Andrew's Estate Act.—Consent of Dame Elianor Andrew, widow and relict of Sir Wm. Andrew, deceased, to the passing of the Bill for sale of the manor of Downham, in the County of Essex (the Estate of Sir Franeis Andrew*), and for buying and settling other lands to the same uses. *Signed* Elianor Andrew. *Dated* 24 Feb. 1698–9. *Attested* Phil. Wright, Rowld. Cross. [The Bill was brought from the Commons on 13 Mareh. The proceedings of the Committee are not recorded in Com. Book. Royal Assent 4 May. L. J., XVI. 399, 465. 11 Will. III. c. 52 in Long Cal.]

1430. April 3. Naturalization Act (Legge and 104 others).—Certificates that the following persons have received the Sacrament, according to the usage of the Church of England, viz. :—

†(1.) Richard Legge, on 5 Mareh 1698–9 at the Parish Church of St. Martin's, Westminster. *Signed* W. Lancaster, D.D., Minister, Fra. Boteler, Churchwarden. *Dated* eod. die. *Attested* by Barthellomew Arabin and Peter La Roque. [Commission as Ensign in 1696. Com. Book, 3 April.]

(2.) Richard Franks [Frankes in Act. Signs as Francks in (3) and (5)], on 12 Mareh 1698–9 at the Parish Church of St. Martin's, Westminster. *Signed* Tho. Yates, A.M., Curate, Fra. Boteler, Churchwarden. *Dated* eod. die. *Attested* by Peter Cucuat and Arnold Lestoc. [Commission as Ensign in 1688, and Captain's Commission in 1691. Com. Book, 3 April.]

(3.) Arnold Lestoc. *Attested* by Richard Francks and Peter Cueuat. Rest as in (2). [Commission as Lieutenant in 1692. Com. Book, 3 April.]

(4.) Jaeob Artsen. *Attested* by Peter Cucuat and Arnold Lestoe. Rest as in (2). [Commission as Ensign in 1698, and Quarter-Master in 1696 and 1697. Com. Book, 3 April.]

(5.) Peter Cueuat. *Attested* by Richard Francks and Arnold Lestoc. Rest as in (2). [Commission as Lieutenant in 1692. Com. Book, 3 April.]

(6.) Charles Langlois Du Bourgay. *Attested* by Isaee Eyme and John Peter Desbordes. Rest as in (2). [Captain; served five years. Com. Book, 3 April.]

(7.) John Peter Desbordes. *Attested* by Charles Du Bourgay and Isaac Eyme. Rest as in (2). [Captain 10 years. Com. Book, 3 April.]

(8.) René Granger. *Attested* by Isaac Eyme and John Peter Desbordes. Rest as in (2). [Commission as Ensign 1692. Now Lieutenant. Com. Book, 3 April.]

(9.) James Barrau Fonsubrane. [Barreau De Fonsubrane in Act. Signs as James Fonsubrane in (10)]. *Attested* by Charles Du Bourgay and Isaac Eyme. Rest as in (2). [Commission as Ensign 1692. Com. Book, 3 April.]

(10.) John De Rivasson [Rivassen in Act] *Attested* by James Fonsubrane and Rene Granger. Rest as in (2). [Rivassen, Commission as Ensign in 1693. Com. Book, 3 April.]

(11.) Lewis De Sediere, on 26 Feb. 1698–9. *Dated* eod. die. *Attested* by Matthieu Lafite and Noah Cadroy. Rest as in (1). [Commission as Captain in 1694. Com. Book, 3 April.]

* Wrongly called Andrews in L. J.

† These numbers accord with the order in which the names appear in the Act.

1699. (12.) Stephen Ronjat. [Ronjat in Aet] *Attested* by Lewis Petit and Isaae Tardy. Rest as in (2). [Surgeon to the King. Com. Book, 3 April.]
- No. 1430. (13.) Peter De Cosne [Cosue in Aet]. *Attested* by David Dignes Delatouehe, Roger Worrall, and Henry Le Coq. Rest as in (1). [Commission as Lieutenant in 1694. Com. Book, 3 April.]
- (14.) Revixit Vannaerssen [Van Naerssen in Aet], of the Parish of St. Anne, Westminster, on 5 March 1698-9 at the Church of the said Parish. *Signed* William Hodges, Minister, John Meard, Churchwarden. Dated 8 March 1698-9. *Attested* by Samuel Masse and Henry Misson, both of the said Parish. [Commission as Lieutenant in 1693-4. Com. Book, 3 April.]
- (15.) Peter La Chappelle. *Attested* by Francis Hurry and Olivier Crespin. Rest as in (1). [Quartermaster; served 13 years. Com. Book, 3 April.]
- (16.) Peter Chasseloup. *Attested* by Moses Jaequeau and Daniel Paillet. Rest as in (2). [Volunteer 1692-3; served at sea. Com. Book, 3 April.]
- (17.) Moses Jaequeau. *Attested* by Peter Chasseloup and Daniel Paillet. Rest as in (2). [Sea-Officer 1691-2; Warrant. Com. Book, 3 April.]
- (18.) Daniel Chevilleau De Boiragon. [Daniel Chealleau Boizagon in Aet] *Attested* by Richard Francks and Jacob Artsen. Rest as in (2). [Chevalleau Boizagon, Commission as Lieutenant in 1695. Com. Book, 3 April.]
- (19.) Augustus Duquery. *Attested* by Augustus De Coutiers and Bernard Deguilhem. Rest as in (1). [Commission as Ensign in 1694. Com. Book, 3 April.]
- (20.) George Conrade, on 5 March 1698-9, at the Parish Church of St. Peter's, Cornhill. *Signed* Will. Beveridge, D.D., Minister, Tho. Manning, Churchwarden. *Dated* eod. die. *Attested* by John Duxbury and John Elletson. [Ensign in 1694. Com. Book, 3 April.]
- (21.) John Stonebloek. [So also in Aet. Stoenbloek in (22)] *Attested* by Peter Godby and Lambart Van Riell. Rest as in (2). [Commission as Ensign in 1694. Com. Book, 3 April.]
- (22.) Lambert Vanryell. [Signs Van Riell (21), as in Aet] *Attested* by Peter Godby and John Stoenblock. Rest as in (2). [Commission as Ensign in 1695. Com. Book, 3 April.]
- (23.) David Tessioniere. [Signs Teissoniere (33), as in Aet] *Attested* by Peter Hamelot and Peter Regnaud. Rest as in (1). [Commission as Ensign in 1697. Com. Book, 3 April.]
- (24.) John Fontaine. [Fontaine in the Aet] *Attested* by Jean Rivasson and René Granger. Rest as in (2). [Fontaine, Commission as Ensign in 1694. Com. Book, 3 April.]
- (25.) Bernard De Guilhem. [Barnard De Guilhem in the Aet. Signs B. Deguilhem (26)] *Attested* by Isaae Gerverant and Stephen Cadroy. Rest as in (1). [Commission as Ensign in 1696. Com. Book, 3 April.]
- (26.) Guy Auguste Coutiers. [Augustus De Coutiers in the Aet and in (19)] *Attested* by Augustus Duquery and Bernard Deguilhem. Rest as in (1). [Commission as Ensign in 1696. Com. Book, 3 April.]
- (27.) Peter Rival. [Rivall in Aet] *Attested* by Lewis Rival and Theophilus Duehesne. Rest as in (2). [Rivall, Commission as Chaplain in 1688. Com. Book, 3 April.]
- (28.) Lewis Rival. [Rivall in Act] *Attested* by Theophilus Duehesne and Paul D'Arundel D'Aneour. Rest as in (2). [Commission as Lieutenant in 1696. Com. Book, 3 April.]

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(29.) Gabriel Champion de Crepigny [de Grepigny in Act], on 12 March 1698-9, at the Parish Church of St. Andrew's, Holborn. *Signed* T. Manningham, D.D., Minister, Fran. Higgins, Churchwarden. *Dated* eod. die. *Attested* by John Cooke of the same Parish and Thomas Benwell. [Grepigny, Commission as Lieutenant in 1691. Com. Book, 3 April.]

(30.) John Chardellon. *Attested* by Lewis Petit and James De Bordes. Rest as in (2). [Commission as Engineer in 1692. Com. Book, 3 April.]

(31.) David Renouard. *Attested* by Arnold Lestoc and Jacob Artsen. Rest as in (2). [Commission as Cornet in 1697. Com. Book, 3 April.]

(32.) Peter De Maubert Dumeny. *Attested* by Richard Francks and Jacob Artsen. Rest as in (2). [Commission as Captain in 1694. Com. Book, 3 April.]

(33.) Peter Regnaud. *Attested* by Peter Hamelot and David Teissoniere. Rest as in (1). [Commission as Lieutenant in 1695-6. Com. Book, 3 April.]

(34.) Peter Persode, on 19 March 1698-9. *Dated* eod. die. *Attested* by James Girardot Duperron and Paul Boyer. Rest as in (2). [Com. Book, 4 April.]

(35.) Paul Boyer. *Attested* by James Girardot Duperron and Peter Persode. Rest as in (34). [Com. Book, 4 April.]

(36.) Peter Morin, on 5 March 1698-9, at the Church of the French Savoy. *Dated* eod. die. *Signed* Thomas Satur, Minister, John Braguier, Churchwarden. *Attested* by James Mallortie and Samuel Bernardeau. [Commission as Ensign in 1693. Com. Book, 4 April.]

(37.) John Olivier, on 2 April 1699. *Dated* eod. die. *Attested* by John Ducros and Gisbert Debie. Rest as in (2). [Commission as Adjutant in 1696. Com. Book, 4 April.]

(38.) Peter Cairan [Cairan in Act. Signs Cayran in (97)] *Attested* by Isaac Vilar and Jacob Minet. Rest as in (36). [Cairon, a Trooper, served 10 years. Com. Book, 4 April.]

(39.) Samuel Garnau [Garnault in Act. signs as Garnault in (59)], on 26 March 1699. *Dated* eod. die. *Attested* by William Vialas and John Gailiard. Rest as in (2). [Guernan, served five years. Com. Book, 4 April.]

(40.) Thomas Colom, on 19 March 1698-9. *Dated* eod. die. *Attested* by John Anthony Berniere and Theophile Vaclen de la Coude. Rest as in (2). [Commission as Lieutenant in 1688-9. Com. Book, 4 April.]

(41.) John Anthony Berniere. *Attested* by Thomas Colom and Theophile Vaclen de la Coude. Rest as in (40). [Commission as Ensign in 1692. Com. Book, 4 April.]

(42.) Theophile Vaclen de la Coude. [Signs so in (40) and (41), Theophilus Vauchin de la Coude in Act] *Attested* by John Anthony Berniere and Thomas Colom. Rest as in (34). [Commission as Ensign in 1695. Com. Book, 4 April.]

(43.) Peter De St. Just. *Attested* by Thomas Colom and John Anthony Berniere. Rest as in (40). [Commission as Ensign in 1689. Com. Book, 4 April.]

(44.) Jeremiah Laujol. *Attested* by Abel Rostan and John Vergnol. Rest as in (36). [Trooper in the Guards. Com. Book, 4 April.]

(45.) Mark Anthony Terson. *Attested* by René Granger and Jean Rivasson. Rest as in (34). [Commission as Ensign in 1694. Com. Book, 4 April.]

1699. (46.) Henry Poilblane. [Poitblaine in Aet, signs as Poilblane in
— (47)] *Attested* by Christian Murray and Jeremiah Frere. Rest as in
No. 1430. (39). [Poitblaine, Commission as Ensign in 1695. Com. Book,
4 April.]
- (47.) Jeremiah Frere. *Attested* by Henry Poilblane and Christian
Murray. Rest as in (39). [Commission as Ensign in 1695. Com.
Book, 4 April.]
- (48.) John Dueros. *Attested* by John Olivier and Gisbert Debie.
Rest as in (37). [Commission as Surgeon in 1692. Com. Book,
4 April.]
- (49.) Rodolphe Cornielle. [Corneille in Aet] *Attested* by Theo-
phile Vaulen de la Conde and Jean Rivasson. Rest as in (34).
[Commission as Second Engineer in 1691-2 in Ireland. Com. Book,
4 April.]
- (50.) John Villebon. [John Villebon de Fremont in Act]. *Attested*
by Peter Dumeny and Charles Fouquet. Rest as in (39). [Five years
Captain. Com. Book, 4 April.]
- (51.) Francis Pyll. *Attested* by John Stoenbloek and Jacob Drobos.
Rest as in (34). [Commission as Ensign in 1697. Com. Book,
4 April.]
- (52.) Jacob Drobos. [Drobus in Aet.] *Attested* by John Stoen-
bloek and Francis Pyll. Rest as in (34). [Drobus, Commission as
Ensign in 1692. Com. Book, 4 April.]
- (53.) Ferdinando Paris. *Attested* by Peter Dumeny and Alexander
Dutens. Rest as in (39). ["Certificate Captain (Brewer) in 1691."]
Com. Book, 4 April.]
- (54.) Gisbert Debie. *Attested* by John Olivier and John Ducros.
Rest as in (37). [Commission as Ensign in 1688-9. Com. Book,
4 April.]
- (55.) Julius Cæsar Vandist. [Vandust in Aet] *Attested* by
Thomas Hepburn and Richard Garstan. Rest as in (39). [Vandust, a
trooper in L. Arran's Regiment three years. Com. Book, 4 April.]
- (56.) Stephen Cadroy. *Attested* by Francis Maleray and Benjamin
Grimaudet. Rest as in (1). [Commission as Ensign in 1696. Com.
Book, 13 April.]
- (57.) William Vialas. *Attested* by Stephen Siguala and John
Gailiard. Rest as in (39). [Trooper 12 years. Com. Book, 13
April.]
- (58.) John Gailiard. *Attested* by William Vialas and Stephen
Siguala. Rest as in (39). [Trooper 10 years. Com. Book, 13
April.]
- (59.) Stephen Siguala. *Attested* by Samuel Garnault and John
Gailiard. Rest as in (39). [Trooper 5 years. Com. Book, 13 April.]
- (60.) Gerhard Van Hesta. [Gerard Van Hesta in Act. Signs as
Geradius Van Hesta in (61)] *Attested* by Jean Papot and George
William Kroud. Rest as in (39). [D. Schonberg's Kettle-drum.
Com. Book, 21 April.]
- (61.) John Papot. *Attested* by George William Kroud and Gerard
Van Hesta. Rest as in (39). [Trooper 7 years. Com. Book, 13
April.]
- (62.) George William Kroud. [Kront in Aet] *Attested* by David
Lenoir and François Grainpret. Rest as in (34). [Trumpeter.
Com. Book, 13 April.]
- (63.) Gideon Bonnivert. *Attested* by Arthur Buckeridge and
James Mallortie. Rest as in (34). [Commission as Lieutenant in
1693. Com. Book, 13 April.]

- (64.) Daniel De Bonnemmer. [Signs as Debonnemmer in (65)] *Attested* by Peter Laverny and Francis De Joyeux *alias* Joyfull. [Signs as Joyfull] Rest as in (39). [Commission as Lieutenant in 1693-4. Com. Book, 13 April.] 1699.
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No. 1430.
- (65.) Peter Laverny. [Laverney in Aet. Signs as Laverny in (64)] *Attested* by Daniel Debonnemmer and Francis de Joyeux *alias* Joyfull. [Signs as Joyfull] Rest as in (39). [Trooper, served 15 years under E. Oxford. Com. Book, 13 April.]
- (66.) Alexander Dutens. [Duteus in Aet] *Attested* by Christian Murray and Jeremiah Frere. Rest as in (39). [Commission as Ensign in 1693-4. Com. Book, 13 April.]
- (67.) Lewis Lestang. [Lovis de Listang in Act] *Attested* by Louis Duplessy and Gisbert Debie. Rest as in (37). [Lewis Lestang, Commission as Lieutenant in 1693-4. Com. Book, 13 April.]
- (68.) Christian Murray. *Attested* by Henry Poilblane and Jeremiah Frere. Rest as in (39). [Commission as Lieutenant in 1689. Com. Book, 13 April.]
- (69.) Paul Favre. [Faure in Aet] *Attested* by Daniel Drolenvaux and William Vernon. Rest as in (34). [Surgeon Mate 5 years. Com Book, 13 April.]
- (70.) James De Bordes. [de Bords in Aet. Signs as De Bordes in (30)] *Attested* by Jeremiah Crowther and William Hawkins. Rest as in (2). [James De Bordes, Commission as Lieutenant in 1694. Com. Book, 13 April.]
- (71.) Lewis Du Plessy. [Signs as Louis Duplessy in (72)] *Attested* by Moses Girandeau and Peter Boullay. Rest as in (37). [Commission as Quarter-Master in 1689. Com. Book, 13 April.]
- (72.) Peter Boulay. [Boullay in Act and (71)] *Attested* by Louis Duplessy and Moses Girandeau. Rest as in (37). [Commission as Surgeon in 1688. Com. Book, 13 April.]
- (73.) Adrian Fulgem, Gentleman of the Guards. *Attested* by Jeremiah Crowther and William Hawkins. Rest as in (2). [Commission as Brigadier in Second troop of Guards in 1689. Com. Book, 13 April.]
- (74.) Moses Girandeau. [Grandeau in Aet. Signs as Girandeau in (72)] *Attested* by Louis Duplessy and Peter Boullay. Rest as in (37). [Commission as Surgeon in 1688. Com. Book, 13 April.]
- (75.) Charles Castelneau. [Castolnau (de Borleau?) in Aet, signs as Castelnau in (76).] *Attested* by John Anthony Berniere and Peter Bonafous. Rest as in (34). [Charles Castelnau, Commission as Ensign in 1694. Com. Book, 13 April.]
- (76.) Peter Bouafous. [Bonnefou in Act] *Attested* by Theophile Vauleu de la Coude and Charles Castelnau. Rest as in (34). [Commission as Ensign in 1693-4. Com. Book, 13 April.]
- (77.) Peter Carnat. [Carnot in Aet, signs Carnac in (78) and Carnat in (104)] *Attested* by Hosea Fiquel and Nathanael Manieher. Rest as in (37). [Surgeon's mate 3½ years. Com. Book, 13 April.]
- (78.) Nathaniel Manieher. [So also in Aet. Signs as Nathanael in (77)] *Attested* by Peter Carnae and John Olivier. Rest as in (37). [Commission as Quarter-Master in 1697. Com. Book, 13 April.]
- (79.) Lewis Dubois. *Attested* by James Rene Desromanes and Gideon Ribier. Rest as in (37). *Appended* is a paper stating as follows:—"Lewis Dubois, son of Peter Dubois and Mary his wife, "born in the County of Aunis, in the parish of Foupatour in France. "His father was Captain in the serviee of Ireland, wherein he died in "the Regiment of Col. La Meloniere." [Commission as Ensign in 1693. Com. Book, 21 April.]

1699.
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No. 1430.
- (80.) Gideon Ribier. [Ribioer in Act] *Attested* by James Rene Desromanes and Louis Dubois. Rest as in (37). [Commission as Lieutenant in 1692-3. Com. Book, 13 April.]
- (81.) John De Millon. [Demillon in Act] *Attested* by John Chardellou and Louis Rival. Rest as in (37). [Commission as Captain in 1696. Com. Book, 13 April.]
- (82.) James Rene Des Romanes. [James Renes Des Romanes in Act. Signs as James Rene Desromanes in (79) and (80)] *Attested* by Gideon Ribier and Louis Dubois. Rest as in (37). [Commission as Ensign in 1693. Com. Book, 13 April.]
- (83.) Solomon Rapin. *Attested* by Gideon Ribier and James Rene Desromanes. Rest as in (37). [Commission as Captain in 1695-6. Com. Book, 13 April.]
- (84.) Hosea Fiquel. *Attested* by John James Fiquel and Henry Poyet. Rest as in (37). [Commission as Surgeon in 1696. Com. Book, 13 April.]
- (85.) Henry Poyet. *Attested* by John James Fiquel and Hosea Fiquel. Rest as in (39). [Trooper, served 12 years. Com. Book, 13 April.]
- (86.) Daniel Perrote, Gent., on 2 April 1699, at the Parish Church of St. Martin's Outwich in London. *Dated* eod. die. *Signed* Thomas Berrow, Minister, Will. Scott, Churchwarden. *Attested* by Francis Bedingfeld and Robert Jackson, both of the said Parish. [Commission as Ensign in 1690. Com. Book, 13 April.]
- (87.) Peter Ducla. *Attested* by Thomas Goolld and Isaac Rigaut. Rest as in (39). [Commission as Ensign in 1693. Com. Book, 13 April.]
- (88.) Solomon Blosset de Loches, on 9th April 1699, at the Church of the French Savoy. *Dated* eod. die. *Signed* Thomas Satur, Minister, John Desfray, Churchwarden. *Attested* by John Lewis de Labene and James Deluse. Com. Book, 21 April.
- (89.) John Memvicle. *Attested* by James Gordon and Jeremiah Crowther. Rest as in (34). [John Memviele, Commission as Quarter-Master in 1697-8. Com. Book, 13 April.]
- (90.) Peter Croye [Croy in Act. Signs Croye in (91)], on 16 April 1699. *Dated* eod. die. *Attested* by Isaac G. St. Eloy and Henry Poilblane. Rest as in (2). [Commission as Lieutenant in 1694-5. Com. Book, 21 April.]
- (91.) Peter Brun. *Attested* by Peter Croye and Henry Poilblane. Rest as in (90). [Trooper. Com. Book, 21 April.]
- (92.) Isaac Harivell, on 9 April 1699. *Dated* eod. die. *Attested* by Charles Richard and Joseph Dussaux. Rest as in (2). [Surgeon, 14 years. Com. Book, 21 April.]
- (93.) Joseph Dussaux. *Attested* by Charles Richard and Isaac Harivell. Rest as in (92). [Commission as Ensign in 1696. Com. Book, 21 April.]
- (94.) Charles Richards. [Richard in Act and in (92) and (93)] *Attested* by Isaac Harivell and Joseph Dussaux. Rest as in (92). [Commission as Ensign in 1696. Com. Book, 21 April.]
- (95.) John Lewis De La Bene. [de Labene in Act] On 9 April 1699, in the French Church of the Savoy. *Dated* eod. die. *Signed* Thomas Satur, Minister, John Deffray, Churchwarden. *Attested* by Salomon Blosset De Loche and James Deluze. [Commission as Captain in 1694. Com. Book, 21 April.]
- (96.) Peter De la Feuillettrie. [Fevilttrie in Act] *Attested* by Peter Desgaudrée and Peter Toussain. Rest as in (90). [Trooper; served 11 years. Com. Book, 21 April.]

(97.) Samuel Villiers, on 9 April 1699, at the Chapel of the Savoy. *Dated* 12 April. *Signed* Paul Larriviere, Minister, James Debat, Churchwarden. *Attested* by Thomas Guenault and Peter Cayran. *No. 1430.* 1699.

[Trooper, 10 years. Com. Book, 21 April.]

(98.) Francis Vine. *Attested* by Henry Poyet and Hosea Fiquel. Rest as in (37). [Trooper, 13 years. Com. Book, 21 April.]

(99.) Cæsar Dupuy. *Attested* by Benjamin La Taille and Abraham Durand. Rest as in (88). [Trooper, 13 years. Com. Book, 21 April.]

(100.) Mark Cazalett. [Peregord Mark Cazalet in Act] *Attested* by Isaac G. St. Elroy and John Giberne. Rest as in (90). [Mark Cazalet, Commission as Captain in 1692-3. Com. Book, 21 April.]

(101.) Philip Jacob Sixt. ["Philip Jacob Sixth, son of Christian Sixth" in Act] *Dated* 9 April 1699. *Attested* by Nicholas Louvigny and Isaac Maleray. Rest as in (97). [Philip Jacob Sixt, Commission as Captain in 1689. Com. Book, 21 April.]

(102.) Peter Gouyquet, Infant. [No Certificate. Com. Book, 21 April.]

(103.) Alexander de Nicolai De Lamartinerie. [Alexander Lamertiniere in Act] *Attested* by Louis Lestang and Jean Martel. Rest as in (92). [Alexr. Lamertiniere in Com. Book, 21 April, but no further description.]

(104.) Claudius St. Martin. *Attested* by Peter Carnat and John Olivier. Rest as in (92). [Quarter-Master; served 15 years. Com. Book, 21 April.]

(105.) John de Rasson [Rustan in Act], Surgeon, on 9 April 1699, at the Parish Church of St. Swithin's in London. *Dated* eod. die. *Signed* John Clerck, Minister, Rich. Fownes, Churchwarden. *Attested* by Daniel Perrote and Timothy Simes. [Surgeon in the *Mary* galley. Com. Book, 21 April.]

[The Bill was brought from the Commons on 20 March. Royal Assent 4 May. L. J., XVI. 407, 466. 11 Will. III. c. 83 in Long Cal.]

Annexed:—

(a) 31 March 1699. Certificate signed by D. Schonburg and Leinster that Kroud, Van Hasta and Papot have served under his command for several years past.

(b) 29 April 1699. Commons' Reasons for disagreeing to the Lords' Amendments to the Bill. [Reported and agreed to by the Commons 28 April. C. J., XII. 671-2. *in extenso*. Communicated to the Lords at the Conference this day. L. J., XVI. 457.]

1431.—April 4. Williamson v. The King (In Error).—Copy Writ of Error and Transcript of Record. Charles II. by Letters Patent granted to Sir Richard Viner, goldsmith, one of the principal sufferers from the closing of the Exchequer in 1672, an annual payment of 25,003*l.* 9*s.* 4*d.*, in lieu of the capital sum of 416,774*l.* 13*s.* 1½*d.* due to him. The money was to be charged on the hereditary revenue derived from the Excise which had been granted to the Crown by Act of Parliament (12 Car. II. c. 24). It was to be in trust for all creditors of Sir Richard who within one year next ensuing the date thereof should deliver up their securities and accept assignments of proportionable parts of the said sum. Robert Williamson was Sir Richard's creditor to the extent of 1,000*l.*, and in 1680 agreed to accept an annual sum of 60*l.* as a proportion of the debt due to him out of the 25,003*l.* 9*s.* 4*d.* paid to Sir Richard out of the Excise. In 1691-2

1699. Williamson obtained a judgment against the Attorney-General in the Exchequer Court for the payment of this annual sum and the arrears thereof. This judgment was reversed in 1696 in the Exchequer Chamber. Williamson then brought a Writ of Error to the House of Lords.

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No. 1431.

[Brought in this day. L. J., XVI. 434. On 19 Jan., Counsel are called in to argue the errors upon the Writ of Error depending in this House wherein Robert Williamson is Plaintiff, and his Majesty, by his Attorney-General, Defendant. *Sir Thomas Powys* opens the case for the Plaintiff. He recites the Letters Patent, etc. *Mr. Dodd* heard also for the Plaintiff. *Ordered* to hear the King's Counsel to morrow. MS. Min. L. J., XVI, 497.

On 20 Jan., *Mr. Solicitor-General* heard for his Majesty. To reverse the judgment given by the Lord Keeper's judgment the Writ of Error is brought. The way is by Petition, whether Petition of Right or not. I will not differ for names. *Mr. Serjeant Wright* heard for his Majesty. Whether the Letters Patent give a right, supposing a right, whether a remedy; whether omitting the King and going to the Courts of Justice is a proper method. He cites Bracton, 3 books. 9 and 10 fol. 438 Gul. 7 and 8 this King. *Sir Thomas Powys* heard in reply. All is reduced to one point; it is admitted the Plaintiff had a legal right; if a right, then there must be a remedy. *Mr. Dodd* replies further on the same side. *Mr. Solicitor* is heard to the Court of Augmentations (objected by the other side) being dissolved, &c. *Mr. Serjeant Wright* heard the same. *Sir Thomas Powys* and *Mr. Dodd* further heard. *Ordered* that the House will hear the Judges on Monday next.

On 22 Jan., Judges heard. Mr. Justice Gold, Mr. Justice Bleneowe, Mr. Baron Hatsell and Mr. Baron Powys desire to be excused (allowed). *Mr. Justice Howell* heard: I gave this judgment in the Exchequer. He goes on, (1) the Question is, whether the Plaintiff in the Writ of Error has a right by the Patent: (2) whether if a right there is a proper remedy: (3) and whether the Plaintiff has taken a legal way of getting it by a *Monstrans de droit* in the Exchequer. I take it the King has an absolute power over this Revenue. If a right in law there is a remedy and a legal remedy. The right a man has against the King is the same as one subject has against another. The King can have no legal right but by matter of Record, and for this the King had his Excheators and these Inquisitions; it is an Office. 22 Ed. III. fol. 31 a Writ of Error in Parliament. A petition for a Writ of Error should not be denied, 43 Ed. III. fol. —. If the Plaintiff had gone by petition, he might have his remedy. This has been taken for law, this method by a *Monstrans de droit* in the Exchequer. If Sir Edward Nevill's case was an augmentation, there are several points to be considered. To consider the nature of the Court of Augmentations and what power the Court had. If there be no power in the Court of Augmentations, then it has no [more] power than a Court of Review. Margery Parker's case, 9 Hen. VI. Upon the whole matter I am of opinion that the judgment given in the Exchequer was a good judgment and ought to stand. *Mr. Justice Turton* heard. The Question whether a remedy or not. It was agreed there was a remedy, and that by Petition of Right to the King, but whether not another remedy. I was of opinion there was a remedy by *Monstrans de droit* and that the Plaintiff had regularly pursued that remedy. The 2 cases of Nevill and Wroth carried us that it was impossible to get over. He cites Pomeray's case, Q.E. I am of opinion with my Brothers that the judgment in the Exchequer was a good judgment.

1699. 1434.—April 14. Writ of Summons (L. Pawlet).—Writ of Summons to John Pawlett de Hinton St. George, Chr. *Dated* 13 July 1698. No. 1434. [Took the oaths this day. L. J., XVI. 437.]

1435. April 14. Trent River Navigation Act.—Draft Provisoos, marked A. The first, which is for the protection of Theophilus, E. Huntingdon, begins (“Provided nevertheless”) and ends (“before the making any such lock or locks, sluice or cuts”). The second begins (“Provided always”) and ends (“by any lock or locks pursuant to this Act”). *Underwritten* are the names of the five Commissioners to be added as an amendment to the Bill, subscribed as follows:—“I consent hereunto on behalf of the inhabitants of Burton and others for the Bill. B. Knight, 1 April 1699.” [Agreed to in Committee 13 April, and again on Report this day. Com. Book. MS. Min. L. J., XVI. 437. The Bill was brought from the Commons on 20 March. Royal Assent 4 May. L. J., XVI. 407, 465. 11 Will. III. c. 44 in Long Cal.]

Annexed:—

(a) 14 April 1699. Draft Proviso, marked B, forbidding the erection of new wharves or warehouses on or adjoining the river between Nottingham bridges and Burton parish, except with the consent of the Commissioners. Begins (“Provided also”). Ends (“Undertaker, his heirs and assigns”). [Appended to preceding. Agreed to in Committee 13 April, and again on Report this day. Com. Book. MS. Min. L. J., XVI. 437.]

(b) 14 April. Names of the five Commissioners. [Added in Committee 13 April, and agreed to on Report this day. Com. Book. MS. Min. L. J., XVI. 437.]

1436. April 17. Naturalization Act (Cloribus and 15 others).—Amended Draft of an Act for naturalizing Augustin Cloribus and others. The Lords’ Amendments are to omit the 5 following:—

* John Daniell Treiber, son of Phillip Daniel Treiber, by Dorothea, his wife, born at Landau, in Germany.

* Peter Brun, son of John Brun, by Gabriella, his wife, born in Coignac [Cognac], in the Province of Xamtonge [Saintonge], in France.

† George William Kroud, son of William Kroud, by Mary, his wife, born in the Palatinate in the Province of Hildeberg.

† Gerard Van Hesta, son of Daniel Van Hesta, by Sophia Van Hesta, born at Wessel in Cleveland.

† John Papot, son of Daniel Papot, by Mary, his wife, born at Craven in the Province of Orleans in France.

And to add the 9 following (in the Act):—

Henry Bertrand.	Peter Deschamps.
Hans Jacob Vanstrason.	William Pertall.
Philip Moreau.	Moses Thomas.
Henry Westerman.	James Girardot Duperron.
Mary Harrell.	

[Read 1^a this day. L. J., XVI. 438. Amended, as above, in Committee. Com. Book 20 April. L. J., XVI. 443. This Bill was amended further by the Commons by adding the 3 following (in the Act):—Peter Hollander, Severus Latomus, Peter Brun.† C. J., XII. 673.]

* Treiber and Brun were left out, not attending in Committee. Com. Book 20 April. Brun’s name was re-inserted by the Commons.

† See Legge’s Naturalization Act **No. 1430**.

Royal Assent 4 May. L. J., XVI. 466. 11 Will. III. c. 84 in Long Cal.]

1699.

Annexed:—

No. 1436.

(a) 20 April. Certificates that the following persons have received the Sacrament, according to the usage of the Church of England:—

(1.) Hans Jacob von Strassen [In Act Vanstrason], on 9 April 1699 at the High German Lutheran Church in London. The Certificate adds that he is from Hamburg, and is a true Protestant and member of the said Church. *Signed* John Esdras Edzard, Minister. *Dated* 12 April 1699. *Attested* by Theodore Stael and Peter Willeke, Clerk.

(2.) Phillip Moreau, on 19 March 1698–9, at the Parish Church of St. Martin's, Westminster. *Signed* Tho. Yates, A.M., Curate, Fra. Boteler, Churchwarden. *Dated* eod. die. *Attested* by Stephen Buscarlet, Daniel Pelhetreau, Christianus Harel, and James Girardot Duperron.

(3.) James Girardot Duperron. [In Act Girardot Duperons. Signs as Duperron in (2.)] *Attested* by Peter Persode, Christianus Harel, Paul Boyer, and Philippe Moreau. Rest as in (2.).

(4.) Petrus Hollander, on 23 April 1699, at the German Lutheran Church in the Parish of S. Mary le Savoy. *Signed* Irenæus Crusius, M.A., Minister, William Baker, and George Russeler, Churchwardens. *Dated* eod. die. *Attested* by William Baker and Charles Klück.

(5.) Servas Latomus, on 23 April 1699, at the High German Lutheran Church in London. The Certificate adds that he is from Frankfort and is a member of the said Church. *Signed* John Esdras Edzard, Minister. *Dated* 24 April. *Attested* by John Frederic Aleman and Peter Willeke, Clerk.

(6.) Mary Rumpf [Mary Harell in Act]. On 19 March 1698–9, at the Parish Church of St. Martin's, Westminster, *Signed* Tho. Yates, A.M., Curate, Fra. Boteler, Churchwarden. *Dated* eod. die. *Attested* by Jeremiah Crowther, Christianus Harel, and James Girardot Duperron.

1437. April 17. Doughty v. Cotton.—Petition and Appeal of Phillip Doughty, Esq. In 1686 Philadelphia Lynch (now wife of Thomas Cotton, Esq.) by her next friend brought a Bill in Chancery against Appellant and Peter Broughton, Esq., Sir George Hutchins, and Edward Doughty, suggesting that by articles, dated 25 August 1697, between Sir Thomas Lynch, Philadelphia's father, and Appellant, it was agreed that the latter should convey to Sir Thomas and his heirs the manor of Eshar [Esher] and mansion-house and Weylands Farm, with other lands thereto belonging, in the County of Surrey, for which Sir Thomas was to pay 4,500*l.* before the end of November then next. The Appellant was to enjoy the profits till 30 Sept. 1680; and further Edward Doughty, the Appellant's half-brother, was to accept a lease from Sir Thomas for 10 years from Michaelmas 1680 of Weylands Farm and other lands (part of the estate to be sold) at 245*l.* a year, and Appellant to become bound in a bond of 2,000*l.* for payment of the rent and performance of covenants, and Sir Thomas was to reconvey or mortgage the whole premises to Appellant for securing payment of 6,380*l.*, the remainder of the purchase money. Edward Doughty took the lease, and, together with the Appellant, gave a bond of 2,000*l.* to Sir Thomas, and gave another bond of 4,000*l.* to the

1699. Appellant to save him harmless against the bond of 2,000*l.*, and Sir Thomas made the mortgage for securing the remainder of the money.
- Philadelphia Lynch by her Bill suggested that it was agreed between Sir Thomas and the Appellant that the rent of 245*l.* should be applied to sinking so much of the interest of the mortgage money as was coming to Appellant from Sir Thomas, and prayed for relief. Appellant in his answer denied the agreement, and on 6 Dec. 1694 the Cause, together with a cross-Cause was heard by the L. Chancellor (then L. Keeper). His Lordship made no decree therein, but ordered the Master to compute what was due for interest for the principal money due on the mortgage, and gave Appellant relief in other matters in difference. The Master on 13 Nov. 1696 reported 7,664*l.* 10*s.* 9½*d.* due, which he appointed Mr. Cotton and his wife to pay to Appellant on the 26th, and, as to the 2,000*l.* bond, he found that Cotton and his wife insisted that the Appellant ought to make good the rent to them, and that the same ought to be applied to sink interest of principal money by agreement, although Edward Doughty was no party to the suit. On 18 May 1696 the Lord Chancellor, on hearing exceptions to the Report by Cotton and his wife, ordered the Master to certify what rent the Appellant received or, without his wilful default, might have received out of Weylands Farm, which was to be brought into the account before the Master to discharge the interest of the mortgage money. The Master on 27 July 1697 reported that Edward Doughty continued in possession of the Farm till Sept. 1684, and that during that time he and his under-tenants suffered great damage by reason of Sir Thomas or some claiming under him as tenants of Esher Mills stopping or penning Esher river above the usual mark to the value of 50*l.* a year, at which time Doughty assigned the term to one Gosling, who on 21 March 1686 leased part of the premises to the Earl of Torrington; that 2,205*l.* was due for 9 years' rent, without deduction for taxes, costs, &c., and likewise found that Philadelphia before her marriage held some part of the Farm. The Lord Chancellor, on hearing exceptions by both parties to this Report, decreed on 10 March 1697 that Appellant should stand in the place of Edward Doughty, and that the rent should be applied to sink the interest on the mortgage. Edward Doughty brought a Bill against Cotton and his wife and Appellant setting forth the purchase, lease, and bonds, and an agreement with Sir Thomas for the costs and damages sustained by him, and the holding of part of the premises by E. Torrington, and the L. Chancellor on 3 March 1698-9 ordered the Master to make the Appellant all such allowances as Edward Doughty was to have had by his lease, and awarded a special injunction for stay of Appellant's proceedings at law against Edward Doughty on the 4,000*l.* bond. Appeals against these decrees and orders for reasons stated. *Signed* by Appellant; *Countersigned* P. Bowes, John Squibb. L. J., XVI. 438. [At the Hearing on 3 May *Mr. Serjt. Wright* and *Sir Bartholomew Shore* were heard for Appellant and *Sir Thomas Powys* and *Mr. Dobyys* for Respondents. MS. Min. The Appeal was dismissed. L. J., XVI. 462.]

Annexed:—

- (a) 24 April 1699. Answer of Thomas Cotton, Esq., and Philadelphia, his wife. The Appeal is frivolous and vexatious. Prays that it may be dismissed with costs. *Signed* by Respondents; *Countersigned* Wm. Dobbins. *Endorsed* as brought in this day.
- (b) 29 April. Answer of Edward Doughty, Gent. The Orders and Decree are just and reasonable. Prays that the Appeal may be dismissed with costs. *Signed* by Respondent; *Countersigned* Jno. Rayner. *Endorsed* as brought in this day.

1438. April 18. *Fowle v. Berkeley*.—Petition of Robert Fowle, Goldsmith. Jonathan, William and Anthony Cope, by their next friends, brought a Bill in Chancery against the Respondent John Berkeley, Esq. (who married Susan Cope, deceased, mother of the said Plaintiffs and only child of Sir Thomas Fowle), and Serjeant Bretland and Petitioner, Sir Thomas' executor, to compel Bretland and Petitioner to purchase lands to make up two fee-farm rents to 300*l.* a year, according to the trust in Sir Thomas' will for their benefit. Defendants insisted that Susan, after the death of her husband Cope, in consideration of 3,480*l.*, which was computed to be sufficient to make up the said rents to 300*l.* a year, had discharged Bretland and Petitioner, as she was advised the will empowered her to do, from laying out the money in the purchase of lands. The Court on 23 July 1698 declared that she had no power to receive the money or dispose of it away from the children, and decreed Bretland and Petitioner, although they have paid the 3,480*l.* to her, to purchase so much land as would make up the said rent to 300*l.* a year, and settle the same according to the will, discharged of the 3,480*l.* This decree was since affirmed by their Lordships. Petitioner, having paid the money to Mrs. Cope, claimed to have the same refunded out of her estate, which had come to Berkeley's hands, and petitioned the Court of Chancery for a rehearing of the Cause as between himself and Berkeley, but the Court refused to intermeddle until he had applied to their Lordships for directions. Prays for directions and relief against Berkeley or for leave to apply for such relief to the Court of Chancery. *Signed* by Petitioner. *Countersigned* N. Wrighte. L. J., XVI. 441. [At the hearing of the Petition on 4 May *Mr. Serjeant Wright* appeared for the Petitioner and *Sir Thomas Powys* for Berkeley. MS. Min. The Petition was dismissed. L. J., XVI. 464.]

1699.

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No. 1438.

Annexed:—

(a) 29 April 1699. Answer of John Berkeley, Esq. Respondent joined with Bretland and Petitioner in their appeal from the decree in Chancery merely for conformity, to give them an opportunity of being relieved against it, but had no other concern in the matter, nothing having been decreed against himself in the Cause. Respondent opposed the Petition of a rehearing, which was dismissed without any directions, as alleged, for applying to their Lordships. As to refunding the 3,480*l.* out of Mrs. Cope's estate, no such matter was put in issue against Respondent, who has therefore had no opportunity of contesting the demand, as he is ready to do when Petitioner shall think fit to proceed by original Bill against him. Prays that the Petition may be dismissed with costs. *Signed* by Respondent; *Countersigned* T. Powys, Edw. Hildeyard. *Endorsed* as read this day. MS. Min.

(b) 1 May. Petition of Robert Fowle, Goldsmith. Prays for a short day to hear one counsel on each side on his Petition of 18 April, or for leave to apply in Chancery for relief. *Endorsed* as read this day. L. J., XVI. 459.

1439. April 19. *Baisley v. Stratford*. Petition and appeal of Euseby Baisley. Appellant's father, being seized of an estate for several lives in the lands of Ballyoliver, Ballyvitt, and Trickemine, in the county of Catherlough, and other land in Ireland for a term of years, left one-third to his wife, one-third to Appellant and one-third to his grandchildren, Robert and Euseby Stratford, appointing as executors his wife, Robert Stratford of Baltinglass, and Appellant. When he

1699. made the will he had no estate of inheritance in Ireland, but he afterwards bought for himself and his heirs the estate of Corballis in Queen's county.
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No. 1439.

On the testator's death Robert Stratford the elder, who had been named an executor of the will, and Edward Stratford took possession of Corballis and the deeds relating to it on behalf of the Respondents, maintaining, and undertaking to make good that it had been bought in trust for them, and that the leases for lives passed under the will. Appellant believed this and paid over 700*l.* which was to be repaid if these statements proved to be unfounded, but he was afterwards informed by counsel that he himself was entitled, as special occupant, to the lands in which the testator had an estate only for lives, they being not devisable by will because the Statute of Frauds and Perjuries was not then in force in Ireland, and that he was entitled, as heir at law, to the other land, and to the real and personal estate under a conveyance made on his marriage. He, therefore, brought an ejectment for the recovery of Corballis, and on the other hand the Respondents exhibited their Bill in Chancery, setting forth that Corballis had been purchased in trust for them, suggesting that he had agreed to a division of the property and paid a sum of money in execution of the agreement, which ought to have been carried out, and praying for an injunction to stop proceedings on the ejectment. The Lord Chancellor of Ireland decreed that Appellant and his wife should levy a fine *sur consuance de droit come ceo*, &c., of the lands of Corballis to the testator's grandsons, and execute conveyances to assure the lands to them, that a Master in Chancery should see security given to Appellant, according to the agreement, that, on performance by the Respondents of what was required, a perpetual injunction should be awarded to stay Appellant's proceedings at law for the lands of Corballis, and that the Respondents should recover against the Appellant the residue of the 900*l.*, with interest, payable under the agreement. Appeals against the decree. Signed by Appellant. Countersigned James Sloan, Fra. Annesley. L. J., XVI. 442. [The Cause was heard on 22 Dec. when *Sir Bartholomew Shore* and *Mr. Sloan* appeared for Appellant and *Mr. Serjt. Wright* and *Sir Thomas Powys* for Respondents. The question for the reversal of the decree, having been put, was lost, the numbers being 13 content and 13 not content. Tellers *E. Macclesfield* and *E. Peterborough*. MS. Min. L. J., XVI. 488.]

Annexed :—

(a) Several Answer of Robert Stratford and Euseby Stratford, minors, by their guardian Thomas Brodrick, Esq. The testator, grandfather of the Respondents, had but two children, the Appellant, and a daughter Elizabeth, who was Respondents' mother. The Appellant and his wife had much disobliged their father by what he considered undutiful and disrespectful demeanour, and had no living children, whereas he had always an entire affection for Respondents' mother and a great fondness for Respondents, and was also under obligation to Respondents' grandfather, Robert Stratford the elder. He resolved to advance the fortunes of the Respondents, having given to the Appellant a plentiful fortune on his marriage, and being under no obligation to give him more, except the reversion of the estate in England. He therefore left them by his will one-third of the rents and profits of the English estate during the life of his wife Alice, with reversion to the Appellant, to whom he also left one-third of his Irish estate. Another third part was left to his wife, and the remaining third part to the Respondents. He appointed

Robert Stratford Trustee for the two grandsons, and directed that he should manage the estate devised to them for their advantage in such manner as he should think convenient. He desired that the will should be kept a secret, lest his wife and son might be dissatisfied and uneasy to him, and announced that he was desirous of laying out a sum of ready money in making a further provision for Respondents, and employed their father to purchase Corballis for their benefit. He also handed over to their mother some of the title deeds, and the conveyances of the property he gave to their father, declaring that the property was purchased for the use and benefit of Respondents and their heirs. He also gave their father possession of the property and directed the tenants to pay their rents to him for the Respondents' use. Their father accordingly managed the property for their benefit. Their grandfather desired that his wife and son might not be told of the object of the purchase, but they discovered it, and were so uneasy to him that for quiet's sake he would not acknowledge to them that he had purchased it for the Respondents, but gave evasive and declining answers when pressed. Notwithstanding which the Appellant was so sensible of what his father had done that he made several proposals to Respondents' father to have him quit and relinquish the estate to him, which he refused. The grandfather, to avoid disputes after his death, proposed to declare the trust by an instrument in writing, but was prevented by accident from doing so, and soon after died. The Appellant did not dispute the will, but joined with Robert Stratford in proving it, and did not pretend to have a claim to anything except the reversion of the English property, even when he met Robert Stratford to settle and divide the claims to the real and personal estate, but insisted on his right to the lands of Ballyoliver, Ballivit and Tiekemine, as being leases for lives only, and not devisable. He expressed great affection for Respondents. Robert Stratford, being anxious for their sakes to be on friendly terms with him, entered into an agreement that Corballis and Ballyoliver, Ballivit and Tickemine should be valued and brought into the division of property under the will. The whole estate was valued at 6,640*l.*, and the Appellant having discovered that the leases farms and stock were worth more than they were valued at, whereas the estate of Corballis had been bought too dear, proposed that the Respondents should take Corballis and nine hundred pounds for their share, and that he should have the rest, to which Stratford agreed, and allowed him to take possession and enjoy the property accordingly, and he paid various sums of money under the agreement. The Appellant, having promised to execute conveyance of Corballis in favour of the Respondents, met their father in Dublin in order to do so, and the papers were given to Counsel and conveyances ordered to be drawn up, but the Appellant, at the instigation of Edmund Jones, an attorney, having got possession of the purchase deeds of Corballis, brought an action of trespass in ejectment to turn the Respondents out of possession, who were constrained to bring their Bill in Chancery praying the execution of the agreement. The Appellant in his answer pretended that his father's will was not a good one, and that the money which he had paid was to be repaid if it should appear that the leases for lives did not pass by will and that Corballis was not purchased in the name of the Respondents' father. He

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insisted on his right to all the estate, real and personal, of the testator, by virtue of a marriage settlement, and refused to allow to the Respondents any benefit under the will. The Lord Chancellor of Ireland decreed that the Appellant and his wife should levy a fine (*sur conusance de droit come ceo, &c*) of the estate of Corballis, and perfect conveyances assuring it to them and their heirs. A perpetual injunction was awarded to stay Appellant's proceedings, and it was also decreed that Respondents should recover from him the rest of the 900*l.* agreed to be paid, with interest. The Respondents deny that their grandfather or father affirmed that the leases for lives passed by the will, that Corballis was purchased in the name of Edward Stratford, or that the latter or his father ever took possession of Corballis or of the deeds of purchase, or that Appellant was ever refused or desired permission to peruse the deed. On the contrary the deed was enrolled in the testator's lifetime, and Appellant knew all about it at the time when the agreement was made, and the testator declared at the time of the purchase that it was for the Respondents' benefit. The Appellant knew this in his father's lifetime. The decree appealed against is just and equitable and Respondents pray that the Appeal may be dismissed with costs. *Signed* Tho. Filmer, Tho. Brodrick. *Endorsed* as brought in this day.

(b) 29 Nov. Petition of the Respondents. The Petition of Appeal was presented in April last for purposes of delay, and is a frivolous and vexatious one. The Appellant has not entered into a Recognizance, as he ought to do. Pray that he may be ordered to do so and that a short day may be appointed for the Hearing. *Signed* Tho. Brodrick. *Endorsed* as read this day.

(c) 18 Dec. Petition of John Hooke, Solicitor, in behalf of Euseby Baisley, Esq. The Appeal is against a decree of the Court of Chancery in Ireland whereby Appellant thought himself disinherited of his estate. The Respondents have not answered though ordered to do so. Appellant had his witness and Counsel ready but both are now in Ireland, and the Respondents have obtained an Order for the hearing of the Cause on December 18th, when it will be impossible for Petitioner to instruct Counsel or get his witness back, &c. As delay is only prejudicial to Appellant, the Respondents being in possession of the premises, he prays their Lordships to appoint some further time. *Endorsed* as read this day.

(d) 28 March 1700. Petition of Euseby Baisley. Petitioner presented his Petition and Appeal last April, and Parliament was prorogued before the day appointed for Respondents to answer. The Respondents' father Edward Stratford made up the decretal order in a form which materially differed from the minutes on which the Petitioner appealed, came to England last October and intending to surprise the Appellant, put in an answer without waiting for a new summons and got the Hearing appointed for Dec. 22, when it was impossible for Petitioner to be there with his papers and instruct Counsel, &c. The Cause was heard and the decree confirmed on that day, whereby Petitioner is disinherited, and compelled without consideration to convey his estate to Respondents on the pretence of a parol agreement, to procure his wife to bar herself of all claim to dower on the lands in question, and to spend the rest of his days in prison. Prays for relief. *Endorsed* as offered this day.

Ordered to be read next sitting day. Edmond Jones was called in and sworn to the affidavit. Read 2 April and rejected.

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(d¹) 28 March 1700. Affidavit of Edmond Jones reciting the proceedings already described and adding that the Petitioner was advised to appeal upon the minutes taken on the Hearing, as the Registrar could not be prevailed upon to make up the order or furnish copies of the deeds of purchase and draft of the intended agreement in time for him to bring them to England. Sworn 21 March 1699 *coram me*. Signed Edmd. Jones. Endorsed Edmund Jones sworn at the Bar this day. Read 2 Apr. 1700 and rejected.

1440. April 21. King's Sedgmoor (Watereourses, &c.) Act.—Amended Clause, marked A, relating to the manor of Compton Dundo, co. Somerset. Begins (“And whereas the manor”). Ends (“in any wise notwithstanding”). [A Clause was offered in Committee on behalf of Col. Strangeways on 15 April, when *Mr. Hoare* said there was no need of it, for the Bill provided that if he had no benefit by the drains he should not pay anything to the charge of them. *Col. Strangeways* said his tenants wrote to him that they should have no benefit by the Bill. The Committee then gave him time till the next meeting to consider who he thought might be competent judges whether he should have any benefit by the drain. Com. Book. On 19 April *Col. Strangeways* offered the above Clause, which was agreed to and reported this day. Com. Book. L. J., XVI. 446. The amendments are to insert the names of the Commissioners and fix the time for their meeting. The Bill was brought from the Commons on 24 March; Royal Assent 4 May. L. J., XVI. 414, 465. 11 Will. III. c. 50 in Long Cal.]

Annexed:—

- (a) 21 April. List of proposed Commissioners, inserted in above Clause. [Appended to preceding.]
- (b) 21 April. Saving Clause, marked B. [Offered in Committee 19 April by E. Oxon, and reported this day. Com. Book. L. J. XVI. 446.]
- (c) 21 April. Proviso, marked C, on behalf of V. Weymouth and the copyholders, &c. of the manor of Walton. [Offered in Committee 19 April, and reported this day. Com. Book. L. J., XVI. 446.]

1441. April 21. Naturalization Act (Sir David Collier and 5 others).—Amended Draft of an Act for naturalizing Sir David Collier, Isaac La Meloniere and others. The Lords' Amendments were the insertion of the first four names in the Act; the other names were added in the Commons. [The Bill was read 1^a on 21 April. Royal Assent 4 May. L. J., XVI. 446, 466. 11 Will. III. c. 82 in Long Cal.]

Annexed:—

- (a) Certificates that the following persons, named in the Act, have received the Sacrament according to the Church of England:—
 - (1.) Sir David Collier, Baronet,* on 2 April 1699, at the Parish Church of St. Martin's, Westminster. Signed W. Laneaster, D.D., Minister, Fra. Bcteler, Churchwarden.

* This Certificate was not perused, like the others, in Committee, having been perused before and proved, when it was to have been added to Legge's Bill. Com. Book, 25 April. See No. 1430.

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Dated eod. die. *Attested* by Peter Carles and William Rientort.

(2.) The Honble. Mr. Isaac La Meloniere, Major-General.* *Attested* by Peter Davall and Evert Jollyvet. Rest as in (1).

(3.) Peter Belecastel [de Belcastel in the Act], on 23 April 1699, at the Parish Church of St. Martin's, Westminster. *Signed* Tho. Yates, A.M., Curate, William Rose, Churchwarden. *Dated* eod. die. *Attested* by Lewis Petit and Salomon Rapin.

(4.) William Rientort, on 9 April 1699, at the Parish Church of St. Martin's, Westminster. *Signed* Tho. Yates, A.M., Curate, Fra. Boteler, Churchwarden. *Dated* eod. die. *Attested* by Gabriel Joseph De Lafon and Jean Martel.

(5.) John Muzett [Mozett in the Act], on 30 April 1699. *Dated* eod. die. *Attested* by Peter Delrien and John Ramsey. Rest as in (3).

(6.) Francis De Joyeux *alias* Joyfull, on 23 April 1699. *Dated* eod. die. *Attested* by Daniel De Bonnemer and Peter Laverny. Rest as in (4).

1442. April 24. Methwold's Estate Act.—Draft Proviso, marked A, as follows:—"Provided also, and it is hereby enacted and declared, that there shall remain lands and hereditaments, parcel of the premises, to the said Jane Methwold, for her jointure, and to her issue, according to the limitations in the said deed of settlement, of the clear yearly value of two hundred pounds, anything in this Act contained to the contrary thereof in any wise notwithstanding." *Endorsed* as added to the Bill this day. [The Bill to enable Thomas Methwold to raise 1,200*l.* on his estate, laid out by him in improving the same, was brought from the Commons on 31 March. Royal Assent 4 May. L. J., XVI. 428, 466. 11 Will. III. c. 79 in Long Cal. It was reported from a Select Committee, apparently that on the Sedgmoor Bill, 24 April, with an Amendment, which was agreed to. *Ib.* 447. No proceedings in Committee are recorded beyond a meeting on 19 April, L. Herbert in the Chair, ordering parties to be heard on the 21st, and another on the 21st, L. Jeffreys in the Chair, adjourning to the Lord Treasurer's room. Com. Book.]

Annexed:—

(a) 24 April. Another draft Proviso, marked A, as follows:—"Provided always, that this Act, nor anything therein contained, shall extend or be construed to extend to prejudice or lessen the jointure of two hundred pounds per annum settled on the said Jane Methwold by the said Deed of Settlement, bearing date the 2nd of June 1676, or any other of the limitations mentioned in the said Deed." *Endorsed*: Clause added by the Committee; read and rejected 24 April 1699.

1443. April 26. Half-pence and Farthings Coinage Discontinuance Bill.—Petition of the Contractors for making copper half-pence and farthings. By Letters Patent of 27 June 1691 their Majesties granted to Petitioners the making of half-pence and farthings of English copper (as not to be counterfeited) to be coined in the Tower of London for seven years from Midsummer then past, so as the quantity in that

* This Certificate was not perused, like the others, in Committee, having been perused before and proved, when it was to have been added to Legge's Bill. Com. Book, 25 April. See No. 1430.

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time did not exceed 700 tons, upon condition that Petitioners should exchange all the tin farthings and half-pence for a like number in tale of copper farthings and half-pence, not exceeding 200*l.* a week during the said term. Petitioners thereupon proceeded on the Patent, and have coined 509 tons of copper half-pence and farthings, and exchanged tin farthings and half-pence in tale amounting to 38,400*l.*, whereby they have lost, over and above all their profits in the copper half-pence and farthings, 6,400*l.* (200*l.* in tale in tin farthings making only 60*l.* worth of tin metal). In prohibiting the coinage last year, Petitioners were further damnified, by keeping their servants and office and a great stock to carry on the work, about 700*l.*, and have nothing to recompense them for all their loss and trouble in the management of the affair (which has been very great) but the profit arising by the remaining coinage, being 191 tons, amounting in tale to 38,000*l.*, which sum is not sufficient to supply the want of the Kingdom, wherein, though some places have farthings convenient, yet other places have few or none at all. The Bill to stop Petitioners for another year is in effect to stop them for ever, because they shall then have but one year to coin the remaining quantity, which is too short a time for that purpose, and Petitioners could neither obtain satisfaction there for their losses nor liberty to perform their contract. Pray to be heard by Counsel before the Bill pass. *Signed* Abel Slaney, Jon. Ambrose, Tho. Rendy, Daniel Barton, Edward Ambrose. L. J., XVI. 441. [The Bill was brought from the Commons on 18 April. *Ib.* 441. On the 29th Counsel were heard for the Bill and for the Petition of the Contractors for half-pence and farthings. The Executors of Edward Ange were also heard and the Bill was rejected. MS. Min. L. J., XVI. 458.]

Annexed :—

(a) 28 April 1699. Petition of Thomas Philp, Thomas Ange and John Ange, Executors of Edward Ange, deceased, for and on behalf of the widow of the said Edward Ange and seven of his children and five grandchildren. By Letters Patent of 27 June 1694 their Majesties granted to several persons full power to coin half-pence and farthings for a term of seven years. Abel Slaney and Daniel Barton, two of the Patentees, being unable, for want of money, to carry on the coinage, borrowed 2,000*l.* of Edward Ange, on security of the Patent, of which money above 650*l.* remains unpaid and due to his estate. Pray to be heard by Counsel against the Bill, which will deprive them of their security. L. J., XVI. 455.

1444. April 26. *King William and King Charles* (Ship) Indemnity Act.—Petition of William Salter and Charles Robertson, officers of their Majesties' Customs in the Port of London. Petitioners, being informed that the ship *King William*, which came from India in July last, went out of England and returned again with more foreign seamen than are allowed by the Navigation Act, seized the ship and exhibited an Information in the Exchequer, to which Defendants have pleaded, and the case coming on to be tried before the L. C. Baron the last term, a juror was withdrawn by consent, in order to a trial at Bar this Easter term. Pray to be heard by Counsel before the Bill pass. L. J., XVI. 451. [The Bill was brought from the Commons on 24 April. *Ib.* 448. On 28 April Counsel were heard for the Petitioners, for the *King William* ship, and for the Bill. *John King* said he was in the ship [*King William*] when she went out—103 English, 47 foreign. MS. Min. Royal Assent 4 May. L. J., XVI. 466. 11 Will. III. c. 81 in Long Cal.].

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No. 1445. 1445. April 27. Conway's Estate Act.—Consent of Sir Edward Seymour to the passing of the Bill. *Dated* 28 March 1699. [Read in Committee this day. Com. Book. The Bill was brought from the Commons and read 1^a on 19 April; committed on 20 April; on the 26th Standing Order 94, requiring 14 days' notice to be given of the meeting of a Committee on a Private Bill, was dispensed with, and the Committee appointed to meet next day. L. J., XVI. 443, 451. Royal Assent 4 May. *Ib.* 465. 11 Will. III. c. 51 in Long Cal.]

Annexed :—

(a) Certified copy of the Act to enable Popham Conway, Francis Seymour, and Charles Seymour, Esquires, and their issue male severally and successively to make leases of their estates. *Noted* in margin Anno 11 Gul. III. Regis. No 51. *Signed* Wm. Cowper, Cler. Parliamentor.

1446. April 29. D. Bolton's Will (Privilege).—Petition of the Right Hon. John, Earl of Bridgewater, Sir Charles Wyndham, Knt., and Richard Robinson, Esq. Petitioners, the executors of the late D. Bolton, would have proved his Will in the Prerogative Court about a month after his death, but were obstructed by a *Caveat* entered on behalf of the present Duke, whereupon his Grace's Proctor and Agent being summoned to show cause, pleaded privilege, which was admitted by the Court, to the great prejudice of Petitioners, there being a great many servants to be discharged, a large number of horses, goods and cattle lying at a continual vast charge, quantities of hay, corn, &c. to be disposed of, money in the hands of persons who may prove insolvent, and very considerable debts and legacies to be paid, which cannot be done till the Will is proved. Petitioners have forborne troubling their Lordships, in expectation of his Grace's coming over from Ireland, his Majesty's leave for that purpose having been obtained and sent nearly three weeks since, but they fear the Session may be concluded before his Grace arrives, and that, on his arrival, he may still insist on his privilege. Pray for leave to prove the Will. *Signed* J. Bridgewater, Richd. Robinson. [On reading this petition Standing Order No. 75 made, that no Peer hath Privilege to hinder the proving a Will. L. J., XVI. 457.]

1447. April 29. Newfoundland Expedition (Prizes).—Letter of J. Burchett, Esq., Secretary to the Admiralty, to Matthew Johnson, Esq., Clerk of the Parliaments. Encloses, in obedience to their Lordships' Order, the Answer of the Commissioners of the Admiralty (Annex (a) below) to the several Petitions (Annexes (b) (d) and (f) below) annexed thereto, and also two original letters, one from Capt. Norris (Annex (c) below), and the other from Capt. Butler (Annex (e) below), which the writer desires to be returned, so soon as their Lordships have made the necessary use of them. *Dated* Admiralty Office, 28 April 1699. [The three Petitions were read on 27 April, and the Commissioners of the Admiralty ordered to lay before the House an account of what they had done upon the matters complained of in the said Petitions. L. J., XVI. 454.* On 4 May the three Petitions from the seamen, and the Commissioners of the Admiralty's Answer to them were read. *Proposed* to hear Bayley and another or two of the *Monk's* men. *John Bayley*, sworn: We were told we must recover it at law. We were poor and could not.

* In MS. Min. the following entry appears: "*Moved* to make an address to the King that he will give directions for the relief of the Petitioners as he shall think fit."

Asked if they applied to the Admiralty. *Answers* : Captain Norris sent us with two or three Petitions to the Admiralty. We did not complain of Capt. Norris to the Admiralty. We sold none of the goods. The foremast men had some. We agreed with one to take the shares for us. MS. Min.]

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Annexed :—

(a) 29 April. Answer of the Commissioners of the Admiralty (pursuant to Order of 27th inst.) to three Petitions referred to them. (Annexes (b) (d) and (f) below). Upon the delivery of a Petition to the Board on 11 Jan. 1697-8 from the seamen belonging to the *Monk* (the only Petition that can be found in the Office relating to this matter), praying their share of prizes, the Commissioners sent the same to Capt. Norris, who commanded in chief, and his answer is annexed (Annex (c) below). As to the second Petition, that of the persons who served in the *Dunkirk* and *Winchester*, the Commissioners have received several Petitions relating to that matter, but not under the names mentioned in that annexed to their Lordships' Order, but Capt. Wilmot dying while abroad, and Capt. Thomas Butler succeeding in the command, the Commissioners required him to give an account thereof, and his answer dated 27 March 1696 is annexed (Annex (e) below). Several other Petitions have been delivered to the Commissioners from officers and seamen that have served in his Majesty's ships, praying their shares of prizes taken by them, which Petitions have been referred to the Principal Commissioners for Prizes, who, being the proper persons to distribute the shares according to the Act, it is supposed have taken care to give the Petitioners satisfaction. As to those persons who petition their Lordships concerning the *Qs* and *Rs* put on men that have served in his Majesty's Fleet, it has always been the practice of the Navy, when men have absented themselves three musters without leave, or their commanders have good grounds to believe they have wilfully run from the ship, either by deserting the boats or otherwise, to put an *R* on them on their muster-books, and to continue the same in case they do not appear in any reasonable time, so that thereby they forfeit to the King all wages due to them. It has likewise been the practice, when men have been put on shore sick or wounded, and do not return to their ships, so soon as the month's time allowed for their cure is expired, to discharge them on the books with a *Q*, that so, before they receive their wages, enquiry may be made how they disposed of themselves after their recovery or their discharge from their sick quarters. Very often it has happened that many men discharged with a *Q* have, after cure, returned to their ships and been re-entered, but that before their return the muster-books wherein they were so discharged have been transmitted to the Navy Office, so that upon the pay of the ships disputes arise as to their wages, in which case it is the business of the parties concerned to make it appear that as soon as they recovered they entered themselves either on board their proper ships or some others, if they were not in the way, or to produce ample satisfaction in what manner they were prevented from so doing. These matters, during the greatness of the late action, were left to the enquiry and determination of the Navy Board, but since the Peace the Commissioners have made themselves judges of the reasonableness of taking off *Qs* and *Rs*, after the Petitions had been presented to

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them and referred to the Navy Board, who, upon examining the ships' books, which remain in their Office, have laid before the Commissioners a true state of every man's case; and so notoriously false is the allegation in the Petition that no examination has been made into their affairs, that since the beginning of November last (the time when the Commissioners took this clamorous affair into their own hands) no less than 1,700 Petitions have been brought into the Admiralty Office relating to *Qs* and *Rs*, which have been stated, considered and despatched, and where the Commissioners have upon proof, or good circumstances, found it reasonable to relieve the Petitioners, it has been done, insomuch as no less than 750 of the 1,700 *Qs* and *Rs* have been taken off. *Dated* Admiralty Office, 28 April 1699. *Signed* Orford, G. Rooke, J. Honblon, J. Kendall, G. Wharton. By command of their Lordships, J. Burchett. [Read on 4 May. MS. Min.]

- (b) 25 April 1699, Petition of John Bayley, George Trout and Roger Whitred in behalf of themselves and the rest of the Ship's company belonging to his Majesty's ship *Monk*. Petitioners served under the command of Robert Stapleton in the expedition to Newfoundland, Capt. John Norris, Commodore, during which time they took several prizes, to the value of 50,000*l.*, whereof they have not had their shares, due by Act of Parliament, allotted to them. Pray that justice may be done to them. *Endorsed*: Read 25 April 1699, and ordered to be considered next Thursday. Read 27 April 1699 and ordered to be sent to the Admiralty, and that an answer be returned hither on Saturday next. L. J., XVI. 450, 454.
- (c) Answer of Capt. Norris to the Commissioners of the Admiralty respecting the Petition of the seamen on board the *Monk* for their share of the *Goodheart Prize*. With regard to the complaint of his not paying them their shares of the said prize according to his Majesty's grant, he states that, so far as he broke bulk in the said ship's cargo when in Newfoundland, the effects were equally distributed amongst the men, before the doing which the seamen and soldiers then in the *Monk* made choice of an officer to keep account of those effects for their interest, and since his bringing the said prize into England the Prize-officers have seized the ship and cargo, and there being a later grant for his Majesty's part of the prize, it has wholly unabled him to do justice to the men in acting according to their Lordships' instructions. *Signed* J. Norris. *Dated* London, 12 January 1697-8. *Noted*: Received and read 12th.
- (d) 24 April 1699. Petition of Daniel Collins, Owen Davis, and Robert Richardson, on the behalf of themselves and about 400 more, with the wives of the absent and the widows of such as were killed and died, that belonged to his Majesty's ships the *Dunkirk*, the *Winchester*, &c. Petitioners and their respective husbands (*sic*) served his Majesty in the expedition to the West Indies in the years 1694-5 under the command of Capt. Robt. Wilmot, Commodore of the said squadron, in which expedition a merchantman of about 200 tons, laden with wine and brandy, and two sloops were taken from the French which, with their loading, were sold at Jamaica, and the money put on board the *Dunkirk*. Petitioners fought on shore at the taking and plundering of Port Apaix [Port de Paix?] and Cape Franseom, [Cape Dame Marie Faux Cap?], where were taken great

quantities of gold, silver, jewels, plate, and other rich wares and merchandizes, with a great number of negroes, all or most of which were sold to the Spaniards and at Jamaica, and the produce put on board the *Dunkirk* and left there at the Commodore's death and Capt. Butler's taking the command thereof. Petitioners, in their return for England, took a French ship off Newfoundland, loaded with fish, which Capt. Butler (after he had taken what he pleased out of her) sent into Looe in Cornwall and there sold, and he refuses to give Petitioners any account or shares of the respective prizes and plunder, but has engrossed the whole to himself, which Petitioners hope to prove to be above 20,000*l*. Pray their Lordships to command him to appear to answer these complaints. *Signed* by Owen Davis, and 10 others. *Endorsed*: Read 24 April 1699, ordered to be considered on Thursday next. Read 27 April 1699 and ordered to be sent to the Admiralty and an answer to be returned on Saturday next. L. J., XVI. 454.

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(e) Answer of Capt. Thomas Butler to the Commissioners of the Admiralty respecting Capt. Wilmot's effects on board the *Dunkirk*. In answer to their letter of 25 March, he states that he delivered all Capt. Wilmot's effects, as well plunder as everything else, which he found under his custody at his coming into the *Dunkirk*, to the value of about 1,000*l*., to his widow and administratrix Mrs. Richard Wilmot, not knowing, nor anybody being able to inform him, what part thereof was plunder. However, he is informed by one of his officers, lately come from London, that the widow has adjusted all matters with the people concerned who have applied to her, having paid him his share, and several others at the same time, and is ready to do the same justice to all that have any pretensions. *Signed* Tho. Butler. *Dated*: on board H.M. ship *Dunkirk* in Portsmouth Harbour 27 March 1696. *Noted*: Received 29th. *Addressed* to the Hon. Wm. Bridgman, Esq., Secretary to the Admiralty.

(f) 25 April 1699. Petition of William Davis, James Wigden, John Shooter, George Curtis, Susan Latry, Mary Micany and Martha Evans, on the behalf of themselves and several thousands of other seamen and their widows and fatherless children, who are all in a deplorable and miserable condition. Petitioners and their relatives, during the whole war, served his Majesty on board his Fleet, and have by several accidents of sickness and wounds been put on shore and left there for recovery of health and cures, and a great number have died there, and many, by reason of their respective ships sailing sooner than expected, and before Petitioners were capable of service, have had *Rs* and *Qs* put on them, and without any manner of examination have been deprived of the pay which they had earned at the hazard of their lives, and never deserted the service but entered themselves on board other ships voluntarily, and have continued in their duty to the conclusion of the Peace, and have since applied for relief to the Lords of the Admiralty, (who have lately taken under their inspection the *Rs* and *Qs*), but after long attendance have been refused, to their utter ruin and the discouragement of seamen in general. Pray their Lordships for relief. *Signed* by William Davis, and 9 others. *Endorsed*: Read 25 April 1699, and ordered to be considered on Thursday. Read 27 April 1699, and ordered to be sent to the Admiralty and an answer to be returned on Saturday next. L. J., XVI. 450, 454.

1699. 1448. April 29. Paper &c. Duty Bill.—Commons' Engrossment of
 — an Act for laying a Duty upon Paper, Parchment, Vellum and
 No. 1448. Pasteboard, for the purposes therein mentioned.

§ i. We, your Majesty's most dutiful and loyal subjects the Commons of England in Parliament assembled, as a further supply for your Majesty's necessary occasions, do humbly give and grant unto your Majesty the several rates, duties and impositions hereafter mentioned, and do humbly beseech your Majesty that it may be enacted, And be it enacted &c. That for and during the term of five years remaining from the thirteenth day of April one thousand, six hundred, ninety and nine, there shall be raised, levied, collected and paid unto and for the use of his Majesty, his heirs and successors, for and upon all paper, pasteboard, parchment and vellum, which at any time or times within or during the said term of five years shall be imported or brought into the Kingdom of England, Dominion of Wales, or town of Berwick-upon-Tweed, a duty after the rate of thirty pounds for every one hundred pounds of the value thereof, over and above all other customs and duties already charged thereupon, and that the values of the several kinds of paper, pasteboard, parchment and vellum, whereupon the said duty of thirty per centum is to be computed, shall be esteemed and valued as follows, that is to say:—Blue paper at 10s. for every ream, consisting of 20 quire, and the quire not exceeding 24 sheets; Brown paper at 3s. for every bundle consisting of 2 cut reams; Cap paper at 7s. 6d. the ream; Demy paper at 12s. the ream; Ordinary printing and copy paper at 4s. 6d. the ream; Painted paper at 13s. 4d. the ream; Pressing paper at 13s. 4d. for every 100 leaves; Rochell paper, as large as Demy paper, Cartheridge* and Elephant paper, such brown Royal paper as is not fit for writing, and double Pott and double Chancery paper and large Post paper at 9s. the ream; Royal paper at 20s. the ream; Parchment at 7s. the dozen sheets or skins, and by the roll containing 6 dozen, at 2l. 2s.; and Pasteboard at 13s. 4d. for every 1,000, and Vellum for Table-books at 10s. the skin, and greater or lesser quantities of the said paper, pasteboard, vellum and parchment shall be valued in proportion to the values aforesaid; And that the value of all other paper, pasteboard, parchment and vellum (not before enumerated or particularized), which shall be imported within or during the term aforesaid, upon which the duty of 30l. for every 100l. is hereby imposed, shall be esteemed as such commodity shall be worth to be sold in England after the importation and landing thereof, to be ascertained by the oath of the merchant or importer.

§ ii. And it is hereby declared and enacted, That the said duty of 30l. for every 100l. hereinbefore charged upon any the commodities aforesaid shall extend thereunto, whether the same be contained in rolls, reams, quires, books, printed or not printed, or otherwise howsoever; and that (over and above the same, and over and above all other duties heretofore charged) there shall be raised, levied, collected and paid, to and for the use of his Majesty, for all printed paper, cuts, maps or books which, within or during the term aforesaid, shall be imported or brought into the Kingdom of England, Dominion of Wales, or town of Berwick-upon-Tweed, a further duty after the rate of 20l. for every 100l. of the value of paper or parchment so printed; and that the paper or parchment so printed, whereupon the said further duty of 20 per centum is to be computed, shall be valued as the same kinds of paper or parchment are by this Act appointed to be valued.

* *I.e.* Cartridge,

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§ iii. And be it further enacted by the authority aforesaid, That the duties hereby set on all the foreign and imported commodities before-mentioned shall be from time to time satisfied and paid by the importer or importers of the same in ready money, upon his or their entry or entries made, and before the landing thereof, or else the said importer shall give security for payment of the said duty within three months' time after the said entry thereof as aforesaid; And, in case of payment in ready money, that there be allowed a discount after the rate of 10*l.* per centum per annum for the said three months; And that in case any such foreign and imported commodities of the kinds before-mentioned shall be landed or put on shore, out of any ship or vessel from beyond the seas, before due entry be made thereof at the Custom House in the port or place where the same shall be imported, and the duties hereby imposed shall be fully satisfied and paid, or without any warrant for the landing and delivering of such imported commodities, of the kinds aforesaid, first signed by the Commissioners, Collectors, or other proper officer or officers of his Majesty's Customs respectively, that all such imported commodities of the kinds aforesaid as shall be so landed or put on shore, or taken out of any ship or vessel, contrary to the true intent and meaning hereof, or the value of the same, shall be forfeited and lost, and shall and may be recovered of the importer or proprietor thereof, to wit, one moiety of the same to the use of his Majesty, his heirs or successors, the other moiety to the use of him or them that will seize the said commodities or sue for the same or the value thereof, by action of debt or on the case, bill, suit or information, wherein noessoign, protection, wager of law, or more than one imparlance shall be granted or allowed.

§ iii. And it is hereby further enacted, That the said duties on such of the said commodities as shall be imported as aforesaid shall be from time to time under the management and government of the Commissioners of his Majesty's Customs for the time being, who shall cause the same from time to time to be raised, levied, collected and paid by his Majesty's officers of the Customs to the hands of the Receiver or Receivers General of the Revenue of the Customs for the time being, and such Receiver and Receivers General for the time being shall answer and pay the moneys arising thereby (the necessary charges of raising, collecting, and answering the same only excepted) into his Majesty's Exchequer, distinct and apart from all other branches within his or their receipt, for the purposes within this Act mentioned.

§ iv. And be it further enacted by the authority aforesaid, That there shall be raised, levied, collected, and paid unto and for the use of his Majesty, his heirs and successors for and upon all paper, parchment and vellum which at any time or times within or during the said term of five years shall be made and manufactured within the Kingdom of England, Dominion of Wales and town of Berwick-upon-Tweed (to be paid by the maker or makers thereof) a duty after the rate of 20*l.* for every hundred pounds of the value thereof, and that the values of the several kinds of such paper, parchment and vellum whereupon the said duty of twenty per centum is to be computed shall be esteemed and valued as follows: That is to say, Blue paper at 2*s.* for every ream; Brown paper, commonly called Pound and Half Pound paper, shall be valued at 2*l.* 10*s.* for the hundred bundles, each bundle consisting of two eut reams; Brown paper called Two Pound paper at 1*s.* the bundle; Brown paper called Four Pound paper 1*s.* the ream; Brown Cap paper at 1*s.* the ream; and Middie hand brown paper at 1*s.* the ream. All other sorts of Brown paper and hand paper at 1*s.* for every bundle, and all Millboards at 15*s.* for every thousand. Demy paper at 12*s.* the

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ream; Ordinary printing and copy paper at 4s. 6d. the ream; Pressing paper at 10s. for every hundred leaves; all large Post Cartheridge and Elephant paper and double Post and double Chancery paper at 9s. the ream; all Royal paper at 20s. the ream; Parchment and Vellum at 5s. the dozen sheets or skins, and by the roll containing six dozen at 30s.; and Vellum for Table books, at 10s. the skin, and greater or lesser quantities of the said commodities shall be valued after the same rates or proportions. And that the value of all other paper, parchment, and vellum (not before particularly valued) which shall be made and manufactured within the Kingdom of England, Dominion of Wales and town of Berwick-upon-Tweed, within or during the term aforesaid, upon which the said duty of 20*l.* for every hundred pounds is hereby imposed, shall be taken to be so much as the said commodity shall be worth to be sold as soon as the same is perfectly made, to be esteemed by the affidavit of the maker or makers, to be made in writing before any of his Majesty's Justices of the Peace, who are hereby empowered and required to take the same, and to be delivered to the officer or officers for the said duties, who shall thereupon have power by this Act, if such officer or officers think his Majesty apparently defrauded by the values sworn to by the maker, to take such goods (being such as are not particularly valued in this Act) at the value specified in such affidavit, paying down ready money to the maker for the same, which ready money so paid down shall be allowed upon the accounts to be made to his Majesty for the duties aforesaid, and the goods in such case shall be sold and disposed of for his Majesty's best advantage and profit.

§ v. And for the better charging, raising, levying, and collecting the duties by this Act imposed upon such of the said commodities as shall be made or manufactured in England, Wales, or town of Berwick as aforesaid, it is hereby further enacted, That it shall and may be lawful to and for his Majesty, his heirs or successors, or to or for the Commissioners of the Treasury or any three or more of them now being, or the High Treasurer of England or any three or more of the Commissioners of the Treasury for the time being, in writing to commissionate and appoint such Commissioners or persons as they shall think fit, from time to time, to be the Commissioners or Surveyors for the said duties, who shall have hereby power to substitute deputies or inferior officers under them for the purposes aforesaid, and shall cause all the moneys arising by the said duties on the said inland commodities (except the necessary charge in collecting or managing of the same) to be brought and paid into the Receipt of the Exchequer. And the said Commissioners of the Treasury or any three or more of them now being, or the High Treasurer of England or any three or more of the Commissioners of the Treasury for the time being, are hereby empowered from time to time to set down, settle and prescribe such orders, rules, and instructions in and for the raising and collecting the duties hereby imposed, or intended to be imposed, upon the said commodities manufactured in England, Wales, or town of Berwick aforesaid, as shall be most conducing or agreeable to the ends and intent of this Act.

§ vi. And it is hereby further enacted, by the authority aforesaid, That all and every the maker and makers of the said manufactures of paper, parchment, and other the said commodities or any of them, shall, before the four and twentieth day of June one thousand six hundred and ninety-nine, give notice in writing to some one or more of the Commissioners or officers to be appointed to manage or collect the said duties, or cause such notice to be left where such Commissioners or officers shall usually reside or execute his or their trust, of the place or places where such person or persons do usually make the manufactures

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aforesaid, with their names and places of abode respectively. And that all and every such maker or makers, as often as he, she, or they shall change their places of working or making of vellum, parchment, or paper, and all and every person and persons who shall at any time or times hereafter be the maker or makers of any such commodities as aforesaid or any of them shall give or leave the like notice of their respective names and places of abode and the places where they shall make or intend to make any such parchment, paper or other the commodities aforesaid, before they or any of them do presume to make the same in any such new place or places, to the end the said Commissioners or other officers may from time to time have due knowledge of all the places where the said goods shall be made, and be the better enabled to secure the duties hereby granted thereupon. And if any such maker or makers shall neglect to give or leave such notice as is required by this Act, he, she or they shall for every such offence forfeit the sum of 20*l.*, the one moiety to his Majesty, his heirs and successors, and the other moiety to him or them that shall sue for the same.

§ vii. And the better to prevent any frauds or concealments whereby his Majesty, his heirs, or successors may be injured or deprived of his or their dues, according to the true meaning of this Act, be it further enacted, That the several makers of paper which shall be made during the term aforesaid shall use no place for drying the same, or making it fit for use, other than such common place or places whereof, he, she, or they shall first have given notice to the proper officer of the said duties to be the place or places for his, her, or their drying or finishing the same. And that the several makers of parchment or vellum which shall be made during the term aforesaid shall use no pits or places for the preparing, making, drying, or finishing the same, other than such pits or places whereof he, she, or they shall first have given the like notice to the proper officer of the said duties to be the pits or places for his, her, or their preparing, making, drying, or finishing the same, and that the respective makers of the said paper, parchment, or vellum shall from time to time permit and suffer the respective officers of the said duties who shall be thereunto appointed to take notice of the stock or quantity of their skins, rags, stuff, or other materials for making of the said vellum, parchment, or paper, and of such vellum, parchment, or paper as they shall so make, and of their proceedings in making or converting the same into paper, parchment or vellum. And that all and every the said makers of paper, parchment, and vellum shall make true entries with his Majesty's officer or officers as shall be appointed to attend their mills or works respectively, giving them true accounts in writing of the several quantities and kinds of paper, parchment, and vellum as shall be so by them respectively made, and for which they ought to pay the duties by this Act imposed, which entries shall be made on or before the twentieth day of May one thousand six hundred ninety-nine for all paper, parchment, and vellum made after the said thirteenth day of April one thousand six hundred ninety-nine, and before the making of such first entries, and the said first entries shall be made upon oath, to be administered as aforesaid, and afterwards all and every the said makers of paper, parchment, and vellum shall make their entries once in every week successively at the furthest during the said term, and in case the proper officer shall at any time desire or demand any such entry to be made oftener, then the same shall be made accordingly. And that no paper maker or paper makers shall remove or suffer to be removed any of the said paper from his or their works. And no parchment maker shall take, or suffer to be taken, his or their parchment or vellum from the harrows or places where they are stretched

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and made fit for use, until such entry shall be made as aforesaid, or that notice shall be given or left to or for the proper officer of the quantities and kinds of paper, vellum, and parchments so made and which ought to be entered as aforesaid, so as no such maker be obliged for making such entry or giving such notice to travel above three miles, and at the time of making such entries, or within three months after, all and every the said makers of paper, vellum, and parchment shall pay his Majesty's duties by this Act payable for the same, and shall likewise have a permission signed by some one of the said officers to carry away every or any parcel of the said commodities before such time as the same shall be removed or carried away from the workhouse or other place where such goods shall be first put after their being dried and fit for use, under the several penalties and forfeitures hereinafter mentioned, which permits the said officers are hereby required to give gratis unto the said makers of such paper, parchment, or vellum, upon paying the said duty hereby granted or securing the same to be paid within the said three months. And if any such maker or makers at the time of such entry shall pay down the duty hereby imposed, he, she, or they shall be allowed for such prompt payment after the rate of 10*l.* per centum per annum upon every sum so to be paid for the said time of three months.

§ viii. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said officer and officers so to be appointed at all seasonable times in the day time to search and see what quantities of the said commodities are making, drying or finishing, and to enter into any mill yard, drying house, warehouse or other house or place where the same shall be making or be lodged, and if any owner or occupier of any such mill-yard, house, warehouse or place aforesaid shall at any time or times refuse entrance to the officers as aforesaid, they shall, for every such refusal, forfeit the sum of 10*l.*, the one moiety thereof to the use of his Majesty, his heirs and successors, and the other moiety thereof to the use of him or them who shall sue for the same to be recovered as aforesaid. And if any maker or makers, owner or owners of any of the said commodities of paper, parchment or vellum shall endeavour to defraud his Majesty of any duty by this Act payable by using any private mill, pit, drying-room or other place for the making or finishing the same contrary to this Act, or by not making due entries and giving an account thereof as aforesaid, or by removing or carrying away any such commodities before the duty be paid or secured and a permission be given for carrying away such goods as aforesaid, or shall fraudulently hide or conceal any of the said commodities to the intent to deceive his Majesty of the just dues for the same, That then and in every such case he, she, or they so offending shall forfeit the sum of 50*l.*, to wit, one moiety thereof to the King, and the other moiety thereof to him or them that shall sue for the same, to be recovered as aforesaid. And moreover, in all such cases the said commodities which shall be found in any such mill, pit, warehouse, drying room or other place, or for which no such entry shall be made, or that shall be unlawfully removed or carried away without a permission given, or be fraudulently hid or concealed, shall be forfeited, and shall and may be seized by any of the officer or officers aforesaid to his Majesty's use.

§ ix. And it is hereby enacted, That in all cases where any offence shall be committed against this Act, or any paper, parchment, vellum or pasteboard shall be seized for any offence against this Act and an information thereof shall be laid by the officer, or a complaint made by the owner within eight days after the seizure or the offence committed before any two or more of his Majesty's Justices of the Peace of the same county, riding or place where such seizures shall be made or

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offence committed, the cause of every such offence or seizure shall and may be heard and determined by such Justices of the Peace, who have hereby power to summon and examine witnesses upon oath concerning the same, and upon the appearance or contempt of the party accused to give judgment, and in case of conviction to issue a warrant for the penalties and forfeitures to be levied by distress and sale of the goods and chattels of the offenders, rendering to the party the overplus (if any be), and if either party shall think himself or herself aggrieved or remain unsatisfied in the judgment of the said Justices, then he, she, or they shall and may by virtue of this Act complain or appeal to his Majesty's Justices of the Peace in the next general quarter sessions for that county, riding or place, who are hereby empowered to summon and examine witnesses upon oath for that purpose and finally to hear and determine the same. Provided nevertheless, that it shall and may be lawful to and for the said respective justices, where they shall see cause, to mitigate or lessen such penalty in such manner as they in their discretion shall think fit, the reasonable cost and charges of the officers, as well in making the discovery as in the prosecution of the same, being always allowed over and above such mitigation, and so as such mitigation does not reduce the fine or penalty to less than one-tenth part thereof over and above the said costs and charges.

§ x. Provided always and it is hereby enacted, That no fee or reward shall be had or taken by any of the said officers from any of the said makers or others for the entries, accounts, affidavits or permissions aforesaid, or any of them.

§ xi. Provided also that if any person or persons shall export beyond the seas for sale any of the said commodities by this Act charged as aforesaid, that then, upon oath made that the duties first due or payable to his Majesty for the same by this Act were duly paid or secured expressing the sum paid or secured and by whom and upon security to be first given that the goods shall not be reloaded in England, Wales or town of Berwick aforesaid (which oath shall and may be administered and the security taken by the customer or controller of the port where such exportation shall be had), the duty which by this Act shall have been paid or secured for such of the said commodities so exported shall be repaid, or so much shall be discharged upon the security before given for the same, anything in this Act before mentioned to the contrary notwithstanding.

§ xii. Provided always and be it further enacted by the authority aforesaid, That all and every the principal sums of moneys now remaining unsatisfied, together with the interest payable for the same, which in pursuance of an Act made and passed in the Session of Parliament holden at Westminster in the eighth and ninth years of his Majesty's reign, entitled, An Act for granting to his Majesty several duties upon paper, vellum and parchment, to encourage the bringing in of plate and hammered money into the Mints to be coined, were lent to his Majesty upon security of the duties by the said Act granted, which duties are lately determined, shall be paid and satisfied out of the first moneys coming into the receipt of his Majesty's Exchequer for the duties on paper, parchment and vellum and pasteboard by this Act granted, in the same course as the orders for the said loans now stand registered in the said receipt, and with preference to the loans which any person or persons shall hereafter make upon credit of this present Act, anything in the said former Act or in this present Act contained to the contrary notwithstanding.

§ xiii. And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for any person or persons, natives or

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foreigners, bodies politic or corporate, to advance and lend to his Majesty at any time or times from and after the passing of this Act, at the Receipt of his Majesty's Exchequer, any sum or sums of money not exceeding the sum of one hundred and forty thousand pounds, as well upon security of the duties by this Act granted (which shall arise after all the loans made upon the said former duties of paper, vellum and parchment and the interest thereof shall be fully satisfied and paid off) as also upon credit of the overplus of the subsidy of tonnage and poundage and other duties upon merchandizes imported and exported determining on the twenty-sixth day of December one thousand six hundred ninety-nine, which after satisfaction of all the moneys charged thereupon by any Act or Acts of this or any former Session of Parliament, and over and above all necessary charges and allowances to be expended and made in managing of the said subsidy and other duties, shall remain to come into the Exchequer of and for the same upon the grant thereof determining as aforesaid. And likewise upon credit of the moneys which between the five and twentieth day of April one thousand six hundred ninety and nine and the five and twentieth day of April one thousand seven hundred and three shall (over and above the necessary charges of collection) arise by the duty of 1s. 10d. for every pound weight of wrought silks imported or to be imported from the East Indies or Persia, or any other places within the limits mentioned in an Act of Parliament made in the ninth year of his Majesty's reign, (amongst other things) for settling the trade to the East Indies. And the said lenders upon the credits or security aforesaid shall have and receive for the forbearance of the moneys so lent interest after the rate of seven pounds per centum per annum for the sum of forty thousand pounds which shall be first lent and advanced on the credits aforesaid, and after the rate of eight pounds per centum per annum for the residue of the said sum of one hundred and forty thousand pounds.

§ xiv. And to the end that all the moneys which shall be lent to his Majesty in pursuance of this Act may be well and sufficiently secured out of the several duties and moneys to arise as aforesaid, Be it further enacted by the authority aforesaid, That there shall be provided and kept in his Majesty's Exchequer, that is to say in the Office of the Auditor of the Receipt, one book or register in which all the moneys that shall be paid into the Exchequer for the said duties and moneys to arise as aforesaid shall be entered and registered, apart and distinct from all other money paid and payable to his Majesty upon any account whatsoever. And that all and every person and persons who shall lend any money to his Majesty upon the credits aforesaid and pay the same into the Receipt of the Exchequer shall immediately have a talley of loan struck for the same and an order for his or their repayment bearing the same date with his or their talley, in which order shall be also contained a warrant for payment of interest for the forbearance thereof at the rates aforesaid at the end of every three months until the repayment of the principal, and that all orders for repayment of money shall be registered and paid in course according to the date of the tallies respectively, without preference of one before another, and that the moneys coming in by the said duties whereupon the said loans are to be made as aforesaid shall be in the same order liable to the satisfaction of the said respective parties, their executors, administrators, and assigns successively, without preference of one before another and not otherwise, and not to be divertable to any other use, intent or purpose whatsoever. And that no fee, reward, or gratuity directly or indirectly be demanded or taken of any of his Majesty's subjects for providing or making of any such books, registers, entries, views or search in or for payment

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of money lent, or the interest thereof as aforesaid, by any of his Majesty's officer or officers, their clerks or deputies, upon pain of payment of treble damages to the party grieved by the party offending, with costs of suit. Or if the officer himself take or demand any such fee or reward then to forfeit his office. And if any undue preference of one before another shall be made, either in point of registry or payment, contrary to the true meaning of this Act, by any such officer or officers, then the party offending shall be liable by action of debt or on the case to pay the value of the debt, damages and costs to the party grieved, and shall be forejudged from his place or office, and if such preference be unduly made by any his deputy or clerk without direction or privity of his master, then such deputy or clerk only shall be liable to such damages and costs of suit as aforesaid, and shall for ever after be incapable of holding his employment. And in case the Auditor shall not direct the order or the Clerk of the Pells record and the Teller make payment according to each person's due place and order, as afore directed, then he or they shall be judged to forfeit and pay as aforesaid, and their respective deputies and clerks herein offending to be liable to such penalties and disabilities and in such manner as aforesaid. All which said penalties, forfeitures, damages and costs to be incurred by any the officers of the Exchequer, or any of their deputies or clerks, shall and may be recovered by action of debt, bill, plaint or information in any of his Majesty's Courts of Record at Westminster, wherein no essoin, protection, privilege, wager of law, injunction or order of restraint shall be in any ways granted or allowed. Provided always, and be it hereby declared, that if it happen that several tallies of loan, or orders for payment, as aforesaid, bear date or be brought the same day to the Auditor of the Receipt to be registered, then it shall be interpreted no undue preference which of those be entered first, so he enters them all the same day. Provided also that it shall not be interpreted any undue preference to incur any penalty in point of payment if the Auditor direct and the Clerk of the Pells record and the tellers do pay subsequent orders of persons that come and demand their money and bring their orders before other persons that did not come to demand their money and bring their orders in their course, so as there be so much money reserved as will satisfy precedent orders which shall not be otherwise disposed but kept for them. Interest upon loan being to cease from the time the money is so reserved and kept in bank for them.

§ xv. And be it further enacted by the authority aforesaid, That every person or persons to whom any money shall be due by virtue of this Act after orders entered in the Book of Register aforesaid for payment thereof, his executors, administrators or assigns, by endorsement of his order, may assign and transfer his right, title, interest and benefit of such order, or any part thereof, to any other, which being notified in the Office of the Auditor of the Receipt aforesaid and on entry or memorial thereof also made in the Book of Register aforesaid for orders (which the officers shall upon request, without fee or charge, accordingly make) shall entitle such assignee, his executors, administrators and assigns to the benefit thereof and payment thereon. And such assignee may, in like manner, assign again, and so *toties quoties*, and afterwards it shall not be in the power of such person or persons who have or hath made such assignments to make void, release or discharge the same or any moneys thereby due, or any part thereof.

§ xvi. And whereas his Majesty's said loyal and dutiful subjects the Commons in Parliament have resolved, that provision shall be made from time to time, for making good the principal and interest on all

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 — Crown, and particularly that a further provision shall be made for
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 and paying off the principal and interest due on the Aid of 3s. in the
 pound, which was granted to his Majesty in the Session of Parliament
 holden at Westminster on the twentieth day of October one thousand
 six hundred, ninety and six, and for paying and discharging all
 principal and interest due on such of the tickets charged on the
 malt duties as are or shall be deficient, and for paying and dis-
 charging the arrears of the annuities lately charged on the
 tonnage duties and now upon an additional Excise of beer, ale and
 other liquors, and for securing and paying the principal and interest of
 the debt due for transport service performed at any time since the
 beginning of the late war: And have also resolved to make provision
 for giving half pay to the Commission Officers his Majesty's natural born
 subjects of England of Horse, Dragoons and Foot, disbanded and to
 be disbanded, till the said Officers shall be fully paid off or otherwise
 provided for, and for securing and paying the arrears of pay due to the
 General Officers of the Army upon the English Establishment from the
 first of January one thousand six hundred ninety and six to the first of
 January one thousand six hundred ninety and seven, not exceeding the
 sum of fifty thousand pounds: And for paying the General Officers of
 the Army upon the English Establishment being his Majesty's natural
 born subjects of England, according to the last Establishment during the
 late war, from the first day of January one thousand six hundred ninety
 and seven to the first day of January one thousand six hundred ninety
 and eight, and for securing and paying the arrears of pay and sub-
 sistence due to the officers and soldiers of the Army upon the English
 Establishment to the five and twentieth day of March one thousand six
 hundred ninety and nine.

§ xvii. Now to the intent that some part of the money so resolved
 to be provided may at present be secured to some of the uses and
 purposes before mentioned, and that money be provided for such other
 use and uses as are herein after expressed, Be it further enacted by the
 authority aforesaid, That out of the money which shall be advanced or
 lent, or otherwise arise by this Act (not being the money appropriated
 for re-payment of loans and interest as aforesaid) there shall be issued
 and paid in the first place the full sum of three thousand pounds
 towards defraying the necessary expenses of the Commissioners
 appointed by another Act made in this present Session of Parliament
 to execute divers powers and authorities therein mentioned relating to
 the Forfeited Estates in Ireland and for defraying other necessary
 charges incident to the execution of the said Commission, which said
 sum of three thousand pounds is hereby directed to be paid out of the
 first moneys arising by loans made by virtue of this Act to the said
 Commissioners for Forfeited Estates, or any two or more of them, or to
 such person or persons as the said Commissioners last mentioned or any
 two or more of them who shall be within this Kingdom at the passing
 of this Act shall direct to be applied for the purposes aforesaid, in such
 manner as the said Commissioners or any four or more of them shall
 think fit, without any account to be given for the said sum by the said
 Commissioners, And in the next place such further sums of money as
 shall be necessary for the charge of circulating Exchequer Bills not
 exceeding the sum of ten thousand pounds, and that the residue of the
 money which shall be lent or otherwise arise by virtue of this Act as
 aforesaid shall be issued and paid for or towards the paying the interest
 of the principal money due on the said Aid of 3s. in the pound for six

months, and towards the paying the arrears of the said Annuities, and for and towards the clearing the arrears of subsistence due to the officers and soldiers aforesaid, so far as the same will extend, provided that nothing in this Act contained shall extend or be construed to give liberty or power to any person or persons whatsoever to print or cause to be imprinted, import or cause to be imported from beyond the seas any book or books or part of books the sole property or right of printing whercof doth or shall belong to any person or persons subjects of this realm. And that in case any person or persons shall offend therein by printing or importing any such book or books, or part of a book, contrary to the true meaning hereof, that then all such books or part of books shall be forfeited, the one moiety thereof to the King, his heirs and successors, and the other moiety thereof to such person as shall inform, seize or sue for the same; and shall also forfeit and pay the sum of twenty pounds to the proprietor thereof. And that all printed books shall be imported at the port of London and not elsewhere.

§ xviii. And whereas the two Universities are at great charge in causing to be printed several books in Latin and Greek and other learned languages at their respective printing houses within the said Universities, which is and will be of great honour and advantage to this Nation: For the encouragement thereof, it is hereby provided and enacted by the authority aforesaid, That upon a certificate from time to time to be presented to the Commissioners of his Majesty's Treasury, or any three or more of them, or to the Treasurer of the Exchequer for the time being under the seal of either of the said Universities, expressing the quantities and kinds of paper actually and bonâ fide employed in the printing of such books as aforesaid within the said respective printing houses, it shall and may be lawful to and for his Majesty, his heirs and successors, by warrant under his or their Royal Sign Manual (for which the officers shall take no fees) to cause the duties which in pursuance of this Act shall have been paid or secured for the paper employed in such printing and specified in such certificates to be repaid to such as the Vice Chancellor of either University shall appoint, or the security for the same to be vacated, anything in this Act contained to the contrary notwithstanding.

§ xix. And to the end the good intents and purposes for which certain persons are by another Act of this present Session of Parliament appointed Commissioners to execute the powers and authorities therein mentioned relating to the Forfeited Estates of Ireland may not be defeated: Be it further enacted, That if the said Commissioners or any four or more of them shall summon any person or persons then being within the Kingdom of Ireland to come before them, in order to be examined upon oath touching the said forfeitures, And [if] the person or persons so summoned shall refuse or neglect, without a reasonable excuse, to attend the said Commissioners according to their summons, or to be examined upon oath before the said Commissioners touching the said forfeitures, Every person or persons so refusing or neglecting shall, for every such offence, forfeit the sum of one hundred pounds, one moiety thereof to the use of the King's Majesty, his heirs or successors, and the other moiety to him or them who will sue for the same by action of debt, bill, plaint or information in any of his Majesty's Courts of Record at Westminster or Dublin wherein no essoign, protection, privilege, wager of law, or more than one imparlance shall be allowed. And also it shall and may be lawful to and for the said Commissioners or any four or more of them by warrant under the hands and seals of them or any four or more of them to commit any person or persons (peers of this realm excepted) refusing or

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neglecting to attend or be examined before the said Commissioners as aforesaid without a reasonable excuse to the next common gaol within the said Kingdom of Ireland, there to continue without bail or mainprize for one year, unless such person or persons shall sooner submit himself to be examined before the said Commissioners, or any four or more of them. *Parchment Collection.*

[Brought from the Commons and read 1^a this day. L. J., XVI. 458. In Committee the last Clause, relating to Irish Estates was struck out. *Ib.* 461. MS. Min. To this amendment the Commons disagreed, for reasons set out in C. J., XII. 683, which were stated to the Lords at a Conference on 3 May, but the House decided to insist on the amendment, for reasons which are given in L. J., XVI. 463–464, and desired another Conference at 1 o'clock on the following day. The Commons answered that they would send an answer by their own messengers, but the time appointed passed without any answer being returned. A Committee of Lords was appointed to consider what was to be done, and recommended that an entry should be made in the Journal of the circumstances. *Ib.* 462–464. The Prorogation taking place on 4 May the Bill dropped.]

1449. May 1. Paper &c. Duty Bill.—Petition of Booksellers in and about the Cities of London and Westminster, praying to be heard before the passing of the Bill imposing a further duty on paper. *Signed* Robt. Clavell, Walter Kettily, Tim. Goodwin. *Endorsed* as read this day. MS. Min. No entry in L. J.

Annexed:—

- (a) 1 May 1699. Petition of Printers in and about the City of London on behalf of themselves and divers others of the same trade. Petitioners have served their apprenticeships in the trade of printing, and many of them have taken houses at great rents, which they have fitted up at great expense for their trade, which is the only one by which they can get their living. The late duty on paper has occasioned a great decay in printing, and should it be continued, or a higher duty be imposed, many hundreds will be ruined, there being many journeymen in the trade who have large families and no other way to maintain them. Pray to be heard before the passing of the Bill. *Signed* by William Coltman and 15 others. *Endorsed* as read this day. MS. Min. No entry in L. J.
- (b) 1 May 1699. Petition of Merchants and Stationers in behalf of themselves and other traders in paper, parchment &c., in and about London. Pray to be heard before the passing of the Bill. *Signed* by Joshua Sharpe and 14 others. *Endorsed* as read 1 April (wrongly for this day). MS. Min. No entry in L. J.
- (c) 1 May 1699. Petition of Bookbinders in and about the City of London on behalf of themselves and divers others of the same trade. Petitioners have served apprenticeship to the trade, by which alone they can maintain themselves and families. The duty laid on leather is already a very great burden upon their trade, and any further duty on paper would so much discourage printing that many of Petitioners would be forced upon their parishes for support. Pray to be heard before the passing of the Bill. *Signed* by Richard Simpson and 14 others. *Endorsed* as read this day. MS. Min. No entry in L. J.
- (d) 2 May 1699. Lords' Amendment to the Bill. [Made this day. L. J., XVI. 461.]

(c) 4 May 1699. Lords' Reasons for insisting upon their Amendment. [Reported this day. L. J., XVI. 463. *In extenso*.]

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1450. May 1. Capt. Bugdon.—Printed Case of Capt. Edmond Bugdon, late Commander of H.M.S. *Jersey*.

[Offered to the House this day. L. J., XVI. 459. Referred to a Select Committee next day. *Ib.* 460. The Committee met on 4 May but was interrupted by the Prorogation. Com. Book.]

1451. May 3. Writ of Summons (V. Saye and Seale).—Writ of Summons to Nathaniel Viscount Saye and Seale. *Dated* 22 April 1699. [Sat first this day, after the death of his father. L. J., XVI. 462.]

1452. May 4. Prorogation.—King's Speech proroguing Parliament this day. L. J., XVI. 466. *In extenso*.

1453. 1 June. Prorogation.—Commission for proroguing Parliament to 13 July. *Parchment Collection*. L. J., XVI. 469. *In extenso*.

1454. 28 Sept. Speaker.—Revocation of the Patent to Sir John Holt, Knt., (Lord Chief Justice of King's Bench), for supplying the place of Lord High Chancellor of England in the Upper House of Parliament. *Dated* 27 Sept. *Parchment Collection*. Read this day. L. J., XVI. 473. *In extenso*.

1455. 28 Sept. Speaker.—Patent to Sir George Treby, Knt., (Lord Chief Justice of the Common Pleas), to supply the place of Lord High Chancellor of England. *Parchment Collection*. *Dated* and read this day. L. J., XVI. 473. *In extenso*.

1456. 24 Oct. Prorogation.—Commission for proroguing Parliament to 16 Nov. *Parchment Collection*. L. J., XVI. 475. *In extenso*.

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